

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF RICHMOND

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JENNIFER LaBARBERA,

Petitioner,

Hon. Ralph J. Porzio

**FOR A JUDGMENT PURSUANT TO ARTICLE 78  
OF THE CPLR**

Index No. 85001/2023

-against-

**ORDER &  
JUDGMENT**

NEW YORK CITY DEPARTMENT OF EDUCATION,

Respondent.

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A Petition having duly come to be heard on March 7, 2023, for an order pursuant to CPLR Article 78 compelling the Respondent Department of Education (“DOE”) to reinstate Petitioner to her position as a teacher, annulling the Respondent’s termination of Petitioner; declaring that Respondents’ denial of Petitioner’s request for a religious accommodation to the City Worker COVID-19 Vaccine Mandate is affected by an error of law, in violation of lawful procedure, an abuse of discretion, and arbitrary and capricious; compelling the Respondents’ to award Petitioner a religious accommodation to the Vaccine Mandate and annulling the Respondents’ determination denying the Petitioner a religious accommodation; awarding Petitioner backpay in salary and benefits from August 19, 2022; awarding attorney’s fees, costs, and expenses to the Petitioner; and further relief as this court may deem just and appropriate,

**UPON READING AND FILING** the following papers submitted to the Court, Verified Petition, dated December 30, 2022, Notice of Petition, dated December 30, 2022, Petitioner’s Memorandum of Law in support of the petition with accompanying exhibits, dated December 30, 2022, Attorney Affirmation in support of the petition, dated December 30, 2022, the answer of

the New York City Department of Education, dated March 2, 2023, the Respondents' memorandum of law in support and accompanying exhibits, dated March 2, 2023, and the Petitioner's Memorandum of Law in reply with accompanying exhibits, dated March 6, 2023, and upon the Court's Decision & Order thereon dated, April 4, 2023, it is hereby

**ORDERED** that the petition is granted, and it is further

**ADJUDGED** that the determination of Respondent, New York City Department of Education, dated August 31, 2022, denying the Petitioner a religious accommodation, is vacated and annulled, and the Petitioner is awarded a religious exemption from the vaccine mandate, with back pay in salary and benefits from August 19, 2022, and an award of attorney's fees, costs, and expenses,

**ADJUDGED** that Petitioner, Jennifer LaBarbera, having an address of 773 Maguire Avenue, Staten Island, New York 10309, does recover from Respondent New York City Department of Education, with an address of 52 Chambers Street, New York, New York 10007, back pay in the amount of \$90,555.63 with interest at the rate of 9% annum from the date of termination, September 6, 2022, in the amount of \$4,808.50, for a total of \$95,364.13, all for which let execution issue forthwith,

**ADJUDGED** that Petitioner, Jennifer LaBarbera, having an address of 773 Maguire Avenue, Staten Island, New York 10309, does recover from Respondent New York City Department of Education with an address of 52 Chambers Street, New York, New York 10007, eight CAR days, and Respondent shall ensure that Petitioner's previously accrued CAR days shall not be impacted by the Respondent's termination of Petitioner's employment, all for which let execution issue forthwith,

**ADJUDGED** that Petitioner, Jennifer LaBarbera, having an address of 773 Maguire Avenue, Staten Island, New York 10309, shall retain her previously accrued vacation days and tenure from New York City Department of Education with an address of 52 Chambers Street, New York, New York 10007, all for which let execution issue forthwith,

**ADJUDGED** that Attorney for Petitioner, Christina Martinez, Esq., having an office at 245 Bricktown Way, Suite J, Staten Island, New York 10309, does recover from Respondents New York City Fire Department, with an address of 9 Metrotech Center, Brooklyn, New York 11201, and the City of New York, with an address of 1 Centre Street, New York New York 10007, attorney's fees in the amount of \$31,095.00, plus costs and disbursements in the amount of \$314.12, for a total of \$31,409.12, all for which let execution issue forthwith.

Dated: \_\_\_\_\_

ENTER:

\_\_\_\_\_  
Hon. Ralph J. Porzio

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Richmond County Clerk