

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: THIRD DEPARTMENT

In the Matter of an Article 78 Proceeding

Nidia Cortes, Virgil Dantes, AnneMarie Heslop,
Curtis Witters, on Behalf of Themselves and Their
Children,

Index No. 5102-16
RJI No.: 01-16-ST8123

Petitioners,

-against-

ROBERT MUJICA, Director, New York State
Division of Budget; NEW YORK STATE DIVISION
OF BUDGET, MARYELLEN ELIA, New York State
Commissioner of Education, NEW YORK STATE
EDUCATION DEPARTMENT,

Respondents.

Affidavit in Support of
Motion to Vacate Stay
and/or Expedite the
Appeal

State of New York)
 s.s.:
County of Bronx)

EMMANUEL POLANCO, being duly sworn, deposes and says the following,
under penalties of perjury:

1. I am the principal of JHS 80 Mosholu Parkway Middle School (“JHS 80”), in the Bronx, and have been the school’s principal since April 2012.
2. I am fully familiar with the facts and circumstances described below.

3. I submit this affirmation in support of Petitioners-Respondents' motion to vacate the statutory stay of enforcement of Judge O'Connor's order, dated December 28, 2016, or, alternatively, to expedite the appeal.

4. JHS 80 is a high-needs middle school. Eighty percent of the students at the school are economically disadvantaged. Thirty-two percent of the students are English Language Learners, and 25% of the school population are students with disabilities. Many students face socio-economic, family-related and housing-related challenges that interfere with their ability to learn and result in low academic performance.

5. Due to the nature of our student population, JHS 80 planned to use the Persistently Struggling School Grant ("PSSG") funds to provide greater supports for our students. A portion of the grant money was going to be used to pay for a teacher to conduct at-risk mentoring for students who face the multiple challenges described above. This teacher was going to work with ten to fifteen students at a time to create individualized learning plans to help these students improve academically.

6. We also intended to provide additional supports for students during the newly implemented extended learning time. Each week, on Tuesdays through Fridays, JHS 80 has added seventy-five additional minutes of extended learning time to the school day. While the New York City Department of Education ("DOE") provides funds for teachers during this extended learning time, no funds are provided for social workers or guidance counselors. JHS 80 intended to use part of the PSSG funding to provide

social workers and guidance counselors during the extended learning time, so that students would be able to receive these important supports during that time period.

7. Additionally, the PSSG funds were going to be used pay for professional development (“PD”) for teachers. External consultants were going to provide PD in curriculum and instruction, addressing Common Core Learning Standards in ELA and Math. These PD opportunities would further enable teachers to meet the diverse needs of their students.

8. These are just a few of the important programs that JHS 80 had planned to implement using PSSG funds. We have been unable to implement these programs because the funds were never provided.

9. JHS 80 submitted its final application for the two-year PSSG in early 2016. JHS 80 was notified of the availability of the grant money in May 2016.

10. Shortly thereafter, in the summer of 2016, JHS 80 was informed that the PSSG money would be frozen and unavailable during the 2016-17 school year.

11. Neither our students nor our teachers have been able to benefit at all from the programs we planned to, but could not, implement, under the PSSG.

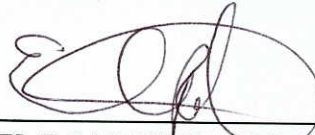
12. JHS 80 receives its budget allocation for the next school year from the DOE in April or May of the current academic year. At that time, I make staffing and scheduling decisions for the next academic year. By mid-June, I must notify staff of staffing changes and/or decisions.

13. If JHS 80 does not receive an assurance that the PSSG funds will be released by June 2017, it is extremely unlikely we will be able to implement any of the programs to be funded by the grant in the 2017-18 school year. If the funds are not in our budget before July 1, 2017, it will be very difficult for JHS 80 to implement any of the programs funded by the grant in the 2017-18 school year.

14. The PSSG funding lapses in March 2018. Thus, if JHS 80 cannot access the funds before July 1, 2017, at the very latest, JHS 80's students will have derived absolutely no benefit from this grant that was created to improve the educational environment of the school and the academic performance of its students.


Dated: March 2, 2017
Bronx, New York

Respectfully submitted,



EMMANUEL POLANCO.

Sworn to before me this 2nd
day of March, 2017



Notary Public

VIPUL G. PAGHDAL
Notary Public, State of New York
No. 01PA6118125
Qualified in Bronx County
Commission Expires November 1, 2020