

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

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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.

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

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

KIMBERLY YOUNG WILKINS being duly sworn, deposes and says the  
following, under penalties of perjury:

1. I am currently the Interim Superintendent of Schools for the City School  
District of Albany. I began that position effective January 22, 2016. Prior to being  
appointed Interim Superintendent, I was employed in many capacities by the Albany

School District. I have been employed by the Albany School District since 1990. Prior to my current position, from 2005-2016, I was principal of Stephen and Harriet Myers Middle School. I have been an administrator in the Albany School District since 1996. I also served as the President of the Administrators Association from 2008-2016.

2. I am fully familiar with the facts and circumstances of this proceeding, as they relate to William S. Hackett Middle School.

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 to expedite the appeal.

4. The majority of students at William S. Hackett Middle School, fifty-five percent are economically disadvantaged. Eleven percent of the students at the school are English Language Learners and fourteen percent of the students have disabilities.

5. William S. Hackett Middle School ("Hackett") was informed of its status as a "persistently struggling" school toward the end of the 2014-15 school year. At that time, Hackett was informed that it would be eligible for the two-year Transformation Grant, for the 2015-16 and 2016-17 academic years.

6. Pursuant to the Receivership law, the Superintendent of Schools was vested with the power to change school programs and curriculum at schools identified as persistently struggling, such as Hackett Middle School. In anticipation of the Transformation Grant funding, the decision was made to revise the master schedule at

Hackett for the 2015-16 school year to lengthen the school/work day and provide an additional thirty minutes of instruction each day. The additional cost of the extended day, such as extra compensation for staff, was to be funded by the Transformation Grant.

7. With the additional thirty minutes each day, Hackett was able to provide all students in the school with an “Enrichment period” within the school day itself during which they received necessary and additional academic support. This academic support included help with homework, the opportunity to make up missed work, and opportunities for teachers to provide re-teaching/reinforcing of the instructional program with students on their team, with students one on one, or in small groups.

8. The addition of the Enrichment period resulted in more students making honor roll, fewer students failing classes and a decrease in the number of student discipline issues.

9. Under the revised master schedule, Hackett also implemented weekly professional development workshops for all faculty and staff. The professional development was conducted by the Hackett AVID Site Team and focused on student engagement strategies. Teachers were introduced to strategies to increase and support students’ writing, inquiry, collaboration, organization and reading skills across all content areas. The weekly professional development workshops played a critical role

in improving overall classroom instruction while also providing a channel for teachers to work collaboratively and discuss strategies for rigorous curriculum development.

10. Owing to the freezing of the second year's installment of the Transformation Grant by the New York State Division of Budget, Hackett was unable to continue the revised master schedule in the 2016-17 school year. Hackett could no longer provide the extra thirty minutes of instructional time, the Enrichment Period nor the weekly professional development workshops. A change in the schedule for the current 2016-2017 school year cannot occur at this point due to the lateness of the school year and the extremely intricate complexities of developing school schedules.

11. In order to restore the revised schedule for the 2017-18 school year, Hackett Middle School would need to receive assurance by May 2017 that the funds will be released. If Hackett is not notified prior to May, the District will not be able to renegotiate the teachers' contract to permit the additional time in the school day and timely make all the scheduling changes necessary to implement a reinstatement of the enrichment period and additional professional development for the 2017-18 school-year.

12. If the funds are released subsequent to May 2017, Hackett would not be able to use the funds for the 2017-18 school year. Thus, students will have been unable to receive critical academic support, support that markedly improved student performance, for two years; and Hackett's grade span is only three years, grades 6-8.

13. The grant will lapse in March 31, 2018. Thus, if the funds are released subsequent to May 2017, Hackett Middle School will have forever lost the opportunity to use the remainder (i.e. the second year's installment) of the Transformation Grant funds permanently.

14. The approved budget for the first year of the Transformation Grant, the 2015-16 school year, was \$1,119,568. Owing to the freezing of the Transformation Grant funding by the New York State Division of Budget, the school district has not been reimbursed \$545,787, which represents almost half the first year's approved allocation.

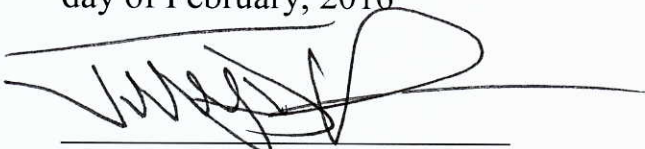
Dated: February 14, 2017  
Albany, New York

Respectfully submitted,



KIMBERLY YOUNG WILKINS, Ed.D.

Sworn to before me this 14<sup>th</sup>  
day of February, 2016



Notary Public

**Jeffrey D. Honeywell**  
Notary Public, State of New York  
Reg. No. 4936844  
Qualified in Albany County  
Commission Expires 6/12/18