



enforcement of CEC 14's "Community Guidelines," "Community Commitments," and Article IV, § 2 of CEC 14's By-Laws;

- (2) Restricting access to CEC 14's official X account to users approved by Defendants;
- (3) Blocking access to CEC 14's official X account based upon users' viewpoints and political associations; and
- (4) Implementing or enforcing DOE's Regulation D-210, including conducting any investigation or disciplining or removing from office any Community Education Council or Citywide Council member on the basis that the accused engaged in "frequent verbal abuse and unnecessary aggressive speech that serves to intimidate and causes others to have concern for their personal safety," Reg. D-210, § II.C, or expressed "disrespect towards children," *id.* § II.D, or "derogatory or offensive comments about any DOE student," *id.*, or speech "that would publicly reveal, share or expose private or personally identifiable information about a DOE student or a member of such student's family without their consent," *id.* § II.E;

The grounds for emergency relief are summarized as follows:

**I. *Emergency Relief Needed with Respect to Regulation D-210***

1. Deborah Alexander is an elected member of New York City's Citywide Council on High Schools.
2. Plaintiff Maud Maron is an elected member of New York City's Community Education Council 2.
3. Plaintiff Noah Harlan is an elected member of New York City's Community Education Council 1.
4. Defendant David C. Banks is the Chancellor of New York City Public Schools.

5. Defendant Nina S. Mickens is the Equity Compliance Officer of New York City Public Schools.

6. Defendants DOE, Banks, and Mickens aggressively enforce the DOE's Regulation D-210, a speech code governing elected members of Citywide and Community Education Councils. Under Regulation D-210, council members can be disciplined, suspended, or removed from office, Reg. D-210, § III, for, among other things, "speech that serves to harass, intimidate, or threaten," including "frequent verbal abuse and unnecessary aggressive speech," *id.* § II.C; "disrespect towards children," § II.D; "derogatory or offensive comments about any DOE student," *id.*; and speech "expos[ing] private or personally identifiable information about a DOE student or a member of such student's family," *id.* § II.E.

7. Defendant Mickens is investigating Alexander under Reg. D-210 for criticizing a political opponent online. Alexander accused CEC 2 Member Gavin Healy of hypocrisy for railing against her and other advocates of selective school admissions as elitists and segregationists, when he himself has sent his child to a District 2 school using screened admissions. Although Defendant DOE and Healy have both disclosed the school Healy's child attended, and Healy is required to have a child enrolled in a District 2 as a condition of holding his office, Defendants seek to punish Alexander under Regulation D-210 for repeating this fact.

8. Defendant Mickens is also investigating Maron under Reg. D-210 for contesting transgender ideology and criticizing child gender transition in a private Whatsapp chat.

9. Defendant DOE's spokesperson has declared that Maron's comments are "despicable" and "not in line with our values." Marianna McMurdock, *In private texts, NY Ed Council Reps, Congressional Candidate Demean LGBTQ Kids*, Dec. 14, 2023, <https://perma.cc/QT3F-3R9Q>.

10. Defendant Banks has directly threatened Maron's position because he disagrees with her viewpoints. At a public meeting, Defendant Chancellor Banks stated, in reference to Maron's texts, that he was "prepared . . . to take action because it is not acceptable to me, for that level of behavior, to continue to play out." *Id.*

11. Defendant Banks has also been quoted as saying,

One of the things I will tell you in the two years I have been chancellor that has been the greatest disappointment to me is to see on a daily basis an example of parents behaving badly. . . . I've tried to give this some time to allow adults to be adults. But when you realize they refuse to do that . . . we are going to begin to take action.

Michael Elsen Rooney, *As tensions flare in parent councils, NYC sees a surge in misconduct complaints*, Chalkbeat New York, March 13, 2024, <https://perma.cc/B7QN-3W39>.

12. Defendant Mickens is also investigating Maron for criticizing the anonymous author of a student newspaper editorial as a "coward" for declining to take responsibility for the editorial's controversial views.

13. Even after the filing of this lawsuit, which attracted public attention and of which Defendants are well aware, Defendant Mickens has persisted in trying to interview Maron as part of her investigations.

14. On April 1, 2024, Mickens declared to Maron in an email that these investigations will proceed.

15. Accordingly, in the absence of emergency relief, Defendant Mickens may *at any time*, following consultation with the "Equity Council," recommend to Defendant Banks that Alexander and Maron be suspended or removed from their elected offices on account of their protected First Amendment political expression, if she has not done so already. And judging by his public statements, Banks has already predetermined the matter, at least with respect to Maron.

16. Moreover, in the absence of emergency relief, Plaintiffs will continue to be chilled in the exercise of their fundamental First Amendment speech rights—including in the exercise of their functions as elected members of Citywide and Community Education Councils—as D-210 complaints and investigations proliferate, and political disagreement becomes a fireable offense. Indeed, Maron’s opponents have signaled their intent to retaliate against her for sponsoring a successful resolution adopted by CEC 2, calling for the DOE to reconsider some of its controversial policies.

17. Defendants’ D-210 enforcement thus harms not only Plaintiffs, but the public that has elected them and which they serve, and which expects them to continue speaking freely and exercising their best judgment as school commission members.

## **II. Emergency Relief Needed with Respect to CEC 14**

18. Defendant Tajh Sutton is President of Defendant New York City’s Community Education Council 14.

19. Defendant Marissa Manzanares is First Vice President of Defendant New York City’s Community Education Council 14.

20. Defendants Sutton, Manzanares, and CEC 14 censor and exclude speakers at public school board meetings based on their viewpoints and associations, and likewise discriminate against members of the public in arbitrarily restricting access to CEC 14’s X account.

21. CEC 14’s By-Laws, art. IV, § 2, unlawfully bars speakers from criticizing the “competence or personal conduct of individuals,” including public officials and employees. Beyond this rule, Sutton, Manzanares, and CEC 14 have adopted a custom, policy, and practice of discriminating against speakers at CEC 14 public meetings based on their viewpoints and political associations. They have expelled

Alexander from a CEC 14 meeting, and barred Alexander and Harlan from attending a CEC 14 meeting, on account of their viewpoints and political associations, real and perceived.

22. Sutton, Manzanares, and CEC 14 have codified their discriminatory practices, adopting “Community Guidelines” that prohibit public speakers from expressing a broad array of viewpoints, including “name-calling,” “disrespect,” “antagonistic behavior,” “homophobia, transphobia, misogyny, ableism, racism, or any other forms of oppressive beliefs or behaviors.” Exh. D.

23. Sutton, Manzanares, and CEC 14 have further demanded that people attending CEC 14 meetings agree to uphold various “community commitments,” including commitments to “intersectional solidarity,” “create the conditions to minimize harm and address harm when it happens whether verbal, behavioral or physical,” “believe those closest to the issues are closest to the solutions,” and “distinguish between good faith dialogue and bad faith arguments.” Exh. E.

24. Sutton, Manzanares, and CEC 14 also reserve the right, under the Commitments, “to remove participants causing discord, spreading misinformation and/ or affiliated with hate groups.” Exh. E.

25. Sutton, Manzanares, and CEC have also imposed an unconstitutional prior restraint on access to CEC 14’s official X account, @council\_14, arbitrarily picking and choosing those allowed to follow and interact with the account, unguided by any rules and without procedural safeguards for individuals like Harlan, whose request to access the account remains ignored, and individuals like Alexander and Maron, whom defendants have barred from following the account.

26. CEC 14 is required to hold a public meeting at least once a month. N.Y.S. Education Law § 2590-e(14). The April 2024 meeting has not yet taken place, but as of this writing, it is legally required to occur within the next 15 days.

27. In the absence of emergency relief, Plaintiffs will be unable to attend or freely participate in the April meeting, as is their right secured by the First Amendment.

28. CEC 14 has set Wednesday, May 15, as the date of its May meeting. *See* <https://www.cec14.org/schedule.html>

29. In the absence of emergency relief, Plaintiffs will be unable to attend or freely participate in the May meeting, as is their right secured by the First Amendment.

30. And in the absence of emergency relief, Plaintiffs will continue to be barred from accessing CEC 14's X account.

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31. Plaintiffs will suffer irreparable harm in the absence of a temporary restraining order and preliminary injunction, as they will be punished on the basis of their viewpoints and political associations in violation of their fundamental First Amendment rights to free speech, petition, assembly and association. The balance of the hardships and the public interest weighs decisively in Plaintiffs' favor, as Defendants lack any valid interest in depriving Plaintiffs of their First Amendment rights, and the public interest is served by securing constitutional rights.

32. In support of this Motion, Plaintiffs rely on the accompanying Memorandum of Law, the declarations of Deborah Alexander, Maud Maron, Noah Harlan, and Alan Gura, and the Exhibits attached thereto.

WHEREFORE, Plaintiffs request:

- (a) that a temporary restraining order be issued by this Court enjoining Defendants, and all those acting in concert with them, from discriminating against speakers at CEC 14's public meetings on the basis of viewpoint and political association, restricting access to CEC 14's official X account to users

approved by Defendants; blocking access to CEC 14's official X account based upon users' viewpoints and political associations; and enforcing New York City Department of Education Regulation D-210, as described in this motion, against Plaintiffs Alexander and Maron on the pending complaints against them, and that such relief be granted as soon as possible;

(b) in the alternative, a preliminary injunction hearing on an expedited basis;

(c) such other relief as this Court deems proper.

Plaintiffs request that the Court waive bond.

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Respectfully submitted,

/s/Dennis J. Saffran

Dennis J. Saffran

New York Bar No. 1724376

LAW OFFICE OF DENNIS J. SAFFRAN

38-18 West Dr.

Douglaston, NY 11363

Tel: (718) 428-7156

djsaffran@gmail.com

s/ Alan Gura

Alan Gura\*

D.C. Bar No. 453,449

Nathan J. Ristuccia\*†

Virginia Bar No. 98372

INSTITUTE FOR FREE SPEECH

1150 Connecticut Ave., NW

Suite 801

Washington, D.C. 20036

Tel: (202) 301-3300

Fax: (202) 301-3399

agura@ifs.org

nrstuccia@ifs.org

*\*Pro hac vice*

† Not a D.C. bar member. Practice in D.C. authorized by D.C. Ct. App. R. 49(c)(3).

*Counsel for Plaintiffs*