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Congress of the United States
House of Representatives
Washington, DC 20515-3223

June 23, 2023

Chancellor David Banks
New York City Department of Education
52 Chambers St, Suite 1
Manhattan, NY 10007
United States

Dear Chancellor Banks,

I am writing to request greater information about the New York City Department of Education's (NYCDOE) practice of assigning "Problem Codes" to the records of New York City educators who lawfully chose not to receive COVID-19 vaccinations. Despite recent claims by the Department, these Problem Codes have had serious external consequences for current and former employees.

As you know, The Problem Code in question serves disciplinary purposes, and whether the codes are permanent or temporary is irrelevant. Shockingly, the same Problem Code used to flag unvaccinated teachers is also utilized for individuals accused of molesting, raping, or harming a child. As a result, these codes have a profoundly negative impact on the flagged educators and can hinder their future employment prospects.

Earlier this year, City Hall had publicly denied the use of problem codes on the records of employees who chose not to receive the COVID-19 vaccination with this statement:

"No code is part of anyone's permanent personnel record or is ever sent to any other department, agency or outside organization. In fact, no outside entity can see any code placed on anyone's internal [human-resources] record for any reason."¹

However, this statement from City Hall has been found to be factually inaccurate. In an email dated February 9, 2022, NYC Department of Education employee Eric Amato stated, "PR =

¹ NYC teachers who refused COVID vaccine slapped with 'scarlet letter' in personnel files: lawyer." New York Post, 14 Feb. 2023, nypost.com/2023/02/14/nyc-teachers-who-refused-covid-vaccine-slapped-with-scarlet-letter-in-personnel-files-lawyer/

Problem code – Problem code was added to all employees who were placed on 2VM vaccine mandate leave. It was placed there the day you went on the leave.”²

Removing a Problem Code is an arduous process, even with legal assistance, and most educators are unaware of its presence until they face employment rejections elsewhere. Therefore, City Hall’s further assertion that the Department of Education does not disclose these codes to external parties is also incorrect. Moreover, the Department sent educators’ fingerprints to the Federal Bureau of Investigation (FBI) and the New York Criminal Justice Services.³ Many questions surround the City’s protocols and procedures for sharing or flagging fingerprints, especially after the inclusion of Problem Codes. However, City Hall denies any such occurrences:

“City Hall added that the standard background – check procedure is: HR units request information from the FBI or state agency based solely on fingerprinting information.”⁴

City Hall’s false and misleading statements regarding the existence, nature, utilization, and impact of Problem Codes on teachers’ livelihoods cannot be accepted at face value. The City has been less than forthcoming about the Problem Codes issued to educators. I therefore request answers to the following questions related to the use of Problem Codes:

1. What is the purpose of these Problem Codes and how are they utilized by the New York City Department of Education?
2. Can you explain the discrepancy between City Hall's claim that the Problem Codes have no external consequences and the reports stating otherwise?
3. Is it true that the same Problem Code used for unvaccinated teachers is also used for individuals accused of child molestation, rape, or harm to a child? If so, why are these different situations treated the same way?

² The New York City Department of Education Problem Code Continues to Prevent Unvaxxed Employees from Working." Advocatz, 12 Feb. 2023, advocatz.com/2023/02/12/the-new-york-city-department-of-education-problem-code-continues-to-prevent-unvaxxed-employees-from-working/

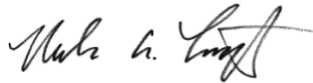
³ Fingerprints of unvaccinated NYC teachers reportedly sent to FBI with 'problem codes,' raising privacy concerns." Fox News, 13 February 2023, www.foxnews.com/media/fingerprints-unvaccinated-nyc-teachers-reportedly-sent-fbi-problem-codes-invasion-privacy.

⁴ Fingerprints of unvaccinated NYC teachers reportedly sent to FBI with 'problem codes,' raising privacy concerns." Fox News, 13 February 2023, www.foxnews.com/media/fingerprints-unvaccinated-nyc-teachers-reportedly-sent-fbi-problem-codes-invasion-privacy.

4. How and when are educators informed about the presence of a Problem Code in their record?
5. Did the Department send educators' fingerprints to the FBI and the New York Criminal Justice Services?
6. Can you address City Hall's denial of the occurrences related to the sharing or flagging of fingerprints and the inclusion of Problem Codes?
7. Are there any plans to review or revise the current practices and policies related to the assignment of Problem Codes based on personal medical decisions?
8. What steps will be taken to rectify any unjust consequences faced by educators as a result of Problem Codes being assigned to them?

I look forward to receiving responses to my questions and request a full review into how the Department chooses to use Problem Codes in employees' personnel records.

Sincerely,



Nicholas A. Langworthy
Member of Congress



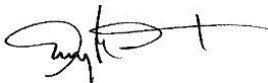
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