

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

**DECLARATION OF  
DEMETRE  
DASKALAKIS**

-----  
J.T., Individually and On Behalf Of D.T.; K.M.,  
Individually and On Behalf Of M.M. and S.M.; J.J.,  
Individually and On Behalf Of Z.J.; C.N., Individually and  
On Behalf Of V.N.; and, All Others Similarly Situated,

20 CV 5878\_(CM)

Plaintiffs,

-against-

BILL de BLASIO, in his official capacity as the Mayor of  
New York City; RICHARD CARRANZA, in his official  
capacity as the Chancellor of New York City Department  
of Education; the NEW YORK CITY DEPARTMENT OF  
EDUCATION; the SCHOOL DISTRICTS IN THE  
UNITED STATES; and STATE DEPARTMENTS OF  
EDUCATION IN THE UNITED STATES,

Defendants.

-----X

**I, DEMETRE DASKALAKIS, MD, MPH, declare as follows:**

1. I am the Deputy Commissioner of the Division of Disease Control of the New York City Department of Health and Mental Hygiene (the “Department”). The Division of Disease Control is responsible for the prevention and control of approximately 100 reportable diseases and conditions. I previously served as the Assistant Commissioner for the Bureau of HIV/AIDS Prevention and Control. While at the Department, I have spearheaded New York City’s Ending the Epidemic strategy to end HIV/AIDS in New York City by 2020, an initiative unprecedented in its commitment and scope. I received my medical degree from the NYU School of Medicine and a Masters of Public Health from the Harvard School of Public Health. I am Board Certified in

Internal Medicine and Infectious Diseases and have practiced medicine for over 20 years. Prior to working for the Department, I worked full-time as a physician and researcher at the NYU School of Medicine and Mt. Sinai Hospital's Icahn School of Medicine in New York City. I continue to work as an Associate Professor of Medicine and Infectious Diseases at Mount Sinai Hospital, where I continue to see patients.

2. I make this declaration pursuant to 28 U.S.C. § 1746, to provide background information about the 2019 novel coronavirus (COVID-19) and the work of the Department to contain the spread of COVID-19. I am familiar with the requirements of City and State Executive Orders concerning schools.

3. The activities of the Department related to COVID-19 have included enhanced surveillance to track disease spread; providing guidance to doctors, hospitals, nursing homes, and other healthcare and congregate facilities regarding pandemic planning, testing, infection control, personal protective equipment (PPE), and other matters; testing for COVID-19 in the Department's Public Health Laboratory; distributing PPE, ventilators, and other medical equipment to hospitals, nursing homes, and other high priority sites; assisting in creating increased healthcare capacity; educating New Yorkers about the virus and how to protect themselves, by publishing information about COVID-19 through posters, flyers, letters, advertisements, videos, social media campaigns, virtual town halls, and other communications; and assisting in case investigation and contact tracing. The Department is advising New York City on a phased reopening that is the key part of the strategy to prevent a second wave of COVID-19; monitoring multiple New York City metrics that indicate whether transmission is remaining low enough to enable additional sectors to reopen or whether there are signs of resurgence suggesting the need for rapid re-closure; and conducting contact tracing and case investigation in facilities including schools, child care,

universities, restaurants, residential congregate facilities, workplaces and other locations as part of an effort to contain the virus and prevent a resurgence.

4. I along with other experts from the Department have been assisting in the planning and implementation of school reopening in partnership with the New York City Department of Education and other City organizations and entities, including the Department of Buildings and the Test & Trace Corp. We provide public health guidance and support in staffing, communication and coordination of the response from the central office to the broader school community.

#### Background Information on Covid-19

5. COVID-19 is a new, potentially severe, and sometimes fatal viral infection. The COVID-19 pandemic is unprecedented in its scope, affecting nearly every country in the world. It is a prodigious public health concern in its devastating health outcomes, both direct and indirect.

6. Globally, there continues to be widespread community transmission of COVID-19, meaning the virus is spreading locally without an identifiable travel nexus or source. While there is still much to be learned about COVID-19, based on the information available, the virus most commonly spreads to people who are in close contact (within about six feet) of a person who has COVID-19. The virus is spread mainly by droplets produced by someone with the infection coughing, sneezing, singing, or talking. The virus can also be spread if someone touches a surface that has the virus on it, and then touches their eyes, nose or mouth with unwashed hands, though this is not thought to be a principle way the virus spreads. There is significant evidence of asymptomatic and pre-symptomatic transmission.

7. Currently, there are over 30 million reported cases worldwide, and nearly 950,000 reported deaths. COVID-19 continues to spread throughout the United States, with

currently approximately 35,000-45,000 new reported cases each day. Health officials have reported nearly 6.7 million infections in the U.S. (over 20% of the global total) and nearly 200,000 deaths (over 20% of the global total) as of September 18, 2020. See COVID-19 Dashboard by the Center for Systems Science and Engineering (CSSE) at Johns Hopkins University, available at <https://arcgis.com/apps/opsdashboard/index.html#/bda7594740fd40299423467b48e9ecf6>.

8. Based on current knowledge, the time between virus exposure and onset of illness (the incubation period) ranges from 2 to 14 days. People with COVID-19 have reported a wide range of symptoms – ranging from no symptoms to mild symptoms, such as cough and sore throat, to more serious symptoms, such as trouble breathing. In its most severe form, COVID-19 causes pneumonia, organ failure and other complications that are sometimes fatal. Older adults, and people of any age, including children, who have serious underlying medical conditions are at higher risk for severe or fatal illness from COVID-19.

9. While there are some investigational therapeutics, there is no known proven and effective treatment for COVID-19, and no vaccine is yet available.

#### Covid-19 and Public Health

10. Public health efforts to protect New Yorkers from infection with the virus that causes COVID-19 have been primarily focused on reducing spread in the community. Reducing the spread of the virus protects people from disease, especially people with increased risk of severe illness, and reduces the likelihood that health care facilities become overwhelmed with an influx of COVID-19 patients.

11. The reproduction number (called  $R_t$ ) is the average number of people each infected person will spread the virus to. It varies considerably by jurisdiction and is dependent on a

variety of factors such as the age and health of the population, the controls put in place to stop transmission, and available treatment. With COVID-19, since there is no vaccine or other pharmacologic prevention tool or proven antiviral treatment, prevention mechanisms, such as physical distancing, good hand hygiene, face coverings, and other non-pharmacologic interventions are the principle ways to reduce the reproduction number.

12. Percent positivity is another important marker of disease burden. Percent positivity is the percentage of diagnostic tests given that have a positive result. Percent positivity is an important data point for gaining a sense of COVID-19 incidence in a population. Several things impact percent positivity including the number of tests performed, who is being tested, how tests are performed, and the accuracy of tests. An increase in percent positivity may be a sign of increased community transmission.

#### COVID-19 in New York City

13. Beginning in March 2020, New York City became the epicenter of the COVID-19 pandemic in the U.S. and had one of the largest reported disease burdens in the world. As of May 13, 2020, there were over 185,000 reported cases in New York City, with over 20,000 confirmed or probable COVID-19 deaths. At that time, New York City had the sixth highest number of reported COVID-19 deaths as compared to any *country* in the world. See COVID-19 Dashboard by the Center for Systems Science and Engineering at Johns Hopkins University, available at <https://www.arcgis.com/apps/opsdashboard/index.html#/bda7594740fd40299423467b48e9ecf6>.

14. In New York City, as elsewhere, non-pharmaceutical interventions such as physical distancing (also called social distancing) interventions and use of face coverings have

successfully reduced the reproduction number and overall disease burden. Physical distancing measures include staying home as much as possible and staying at least six feet from others. Even when precautions are taken, such as standing apart from others and wearing a face covering, in-person interactions carry some risk of disease transmission. The measures taken in New York City beginning in mid-March 2020, included the closing of all schools and replacing in-person with remote learning through the end of the school term in June 2020, were critical to reducing COVID-19 transmission in New York City.

15. Prior to the local implementation of physical distancing, COVID-19 spread quickly in New York City resulting in a surge in the number of individuals hospitalized due to severe symptoms such as respiratory distress, requiring supplementary oxygen and in more severe cases mechanical ventilation and other life support. Physical distancing measures began in mid-March in New York City, and by mid-April, COVID-19 transmission had peaked, followed by a steady decrease in new cases to date. The Department attributes this decrease largely to physical distancing – indeed, there is no other explanation for the significant reduction in disease transmission.

16. As of September 16, 2020, there have been almost 234,000 cases of COVID-19 in New York City, with over 57,000 hospitalizations and over 23,000 deaths (over 19,000 confirmed and over 4,000 probable). However, the number of cases, hospitalizations, and deaths dropped precipitously beginning in the second week of April, reflective of a marked reduction in community transmission. Based on modeling estimates, the reproduction number dropped to in the range of one by the end March and has remained in that range since then. The percent positivity has been below two percent since July 12, and the 7-day rolling average has been in the range of one percent since early August.

<https://www1.nyc.gov/site/doh/covid/covid-19-data.page>. While these data show that New York City has been successful in reducing the spread of COVID-19, physical distancing efforts must continue if a resurgence is to be prevented.

17. New York City's reopening has been more gradual and fine-tuned than other jurisdictions, including other regions in New York State, given the different risk factors faced in the City: New York City contends with a high ongoing high risk of "imported" cases because it is a center for domestic and international travel and welcomes, as well as home to numerous colleges and universities that welcomes students from around the country and world; and the inherent risk associated with a large population living in a dense environment, including in multi-generational housing and residential congregate facilities, such as nursing homes and shelters, that make distancing difficult and increase the likelihood that an increase in transmission could quickly lead to a resurgence. Decisions about re-opening schools and expanding in-person learning must take into account the inherent risks of a resurgence of COVID-19, as New York City continues to grapple with a disease that we are all still learning about.

18. The New York City Department of Education's plan for the commencement of the school year beginning in September 2020 provides parents with two choices. Parents may choose 100% remote learning or they may choose a blended model, where students are in school on some days and engage in remote learning on other days.

19. It is necessary to limit the number of days students are in school to maintain physical distancing. This is because most classrooms are not large enough to allow a full classroom of students to stay six feet apart. In addition, when all students are in school, hallways and other common spaces may become very crowded, reducing the ability of staff and students to practice necessary physical distancing.

Children and COVID-19

20. Children can get COVID-19. As of September 10, 2020, almost 550,000 children and adolescents tested positive for COVID-19 in the United States. This represents a 15% increase from August 27 to September 10, 2020. <https://services.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/children-and-covid-19-state-level-data-report/>. In New York City, among persons 0-17 years of age, there have been 7,896 cases, 635 hospitalizations, and 12 deaths, as of September 15, 2020. <https://www1.nyc.gov/site/doh/covid/covid-19-data.page>.

21. While further studies need to be performed, the preponderance of available evidence indicates that children are less likely to be symptomatic and less likely to develop severe symptoms than adults.

22. However, a new health condition, multisystem inflammatory syndrome (MIS-C) associated with COVID-19, is appearing in children in New York City and elsewhere. MIS-C is a rare but serious condition that is similar to other serious inflammatory conditions such as Kawasaki disease and toxic shock syndrome. Children with MIS-C can have problems with their heart and other organs and need to receive medical care in a hospital. The symptoms of MIS-C often appear days or weeks after the child became infected with the virus that causes COVID-19. As of September 16, 2020, in New York City there have been 226 confirmed cases of MIS-C that meet the Centers for Disease Control and Prevention's case definition.

23. Another concern is children with pre-existing medical conditions that make them more likely to develop severe symptoms if they contract COVID-19. Children who are medically complex, who have neurologic, genetic or metabolic conditions, or who have congenital heart disease, might be at increased risk for severe illness from COVID-19 compared to other children.

24. While there is still much to learn about COVID-19, there is a growing body of evidence that while children generally do not get as sick as adults, they may be efficient transmitters of the virus, especially older children. The results of a large study in South Korea, released in late July 2020 (early release; not final publication), found that children over the age of 10 can transmit COVID-19 as effectively as adults. [https://wwwnc.cdc.gov/eid/article/26/10/20-1315\\_article](https://wwwnc.cdc.gov/eid/article/26/10/20-1315_article).

25. There is also emerging evidence that children may have high viral loads, even though generally less symptomatic than adults. A recent study found that children can carry high levels of virus in their upper airways, particularly early in infection. Nasopharyngeal viral load of study participants (persons ages of 0-22 with acute COVID-19 or MIS-C) was found to be significantly higher than hospitalized adults with severe disease. The study also found “no age correlation with viral load, indicating that infants through young adults can carry equally high levels of virus.” [https://www.jpeds.com/article/S0022-3476\(20\)31023-4/fulltext](https://www.jpeds.com/article/S0022-3476(20)31023-4/fulltext). While additional research is needed, the potential for children to have high viral loads in the absence of symptoms has significant implications for community transmission.

26. Accordingly, it is serious concern that if children attending school become infected with the virus that causes COVID-19, they may infect other children, school staff, and persons they live with, including children and adults at increased risk for severe illness.

27. The results of re-opening in other states and countries demonstrate the importance of caution in re-opening decisions, particularly since there is still so much about the virus that we don't fully understand. States and countries that went through periods of low or even no community transmission have experienced a resurgence in the wake of re-opening restaurants, bars, schools, and other indoor public places. New York City must exercise caution in reopening

schools, with constant monitoring and the ability to scale back as needed, to reduce the risk of a return to widespread community transmission.

28. I declare under penalty of perjury under the laws of the United States, that the foregoing is true and correct to my personal knowledge

Dated: New York, New York  
September 18, 2020



---

**DEMETRE DASKALAKIS**