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NYC Teachers Score Another Win in Fight to Obtain Religious Exemptions

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A Nov. 28 ruling by New York's 2nd Circuit Court of Appeals means most New York City Department of Education employees denied a religious exemption from the city's COVID vaccine mandate must be allowed to reapply for an exemption under a new process.

By [Michael Kane](#)



For the second time in two weeks, New York's 2nd Circuit Court of Appeals ruled in favor of New York City educators seeking religious exemptions to [COVID vaccine](#) mandates.

On Nov. 28, [the court ruled](#) most New York City Department of Education (DOE) employees denied a religious exemption and placed on unpaid leave must be allowed to reapply for an exemption under a new process.

The latest ruling extended the court's [Nov. 13 decision](#) that the 15 plaintiffs who sued New York Mayor Bill De Blasio ([Kane v. De Blasio](#)) and the City of New York ([Keil v. The City of New York](#)) must be allowed to reapply for a religious exemption to vaccination. Since this latest development, the DOE has sent emails to many educators denied religious exemptions informing them they, too, can reapply for a religious exemption.

This second ruling is much more significant than the first, according to attorney Sujata Gibson, lead attorney for the plaintiffs in Kane v. De Blasio.

Unlike the first ruling, which came down from a motions panel, the Nov. 28 ruling came from a merits panel overseen by the court's Chief Justice Debra Ann Livingston, which gives the ruling much more weight over the eventual outcome of the case.

The latest ruling officially overturns the previous ruling, handed down by Judge Valerie Caproni in New York's Southern District Federal Court, that denied any relief to the plaintiffs.

"An important aspect of this ruling is that the court acknowledged the policy is likely to be found unconstitutional and that 'strict scrutiny' must be applied," Gibson said. Gibson added:

"This is one of the first vaccine-related cases to receive strict scrutiny review, and the next phases of this litigation could have significant impact. The government now has the burden to prove that they are using the least restrictive means to serve a compelling interest. With fundamental rights at stake, this should be the standard."

According to Gibson, the very few teachers granted religious exemptions to vaccination are still denied the right to enter their school buildings and are working at other placements.

By opening up "strict scrutiny," Gibson said, the courts may have to analyze the necessity of this segregation and whether it effectively equates to government overreach.

Gibson noted that despite the favorable ruling, the fight is far from over.

"There is a lot more work to do to ensure that the discrimination that occurred in New York City is rectified, not only for these 15 plaintiffs, but for all similarly situated DOE employees," Gibson said. "What happened in New York is not okay, and we need to ensure that it does not easily happen again. We've won a preliminary battle, but the real work now lies ahead."