

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

JAMES SHULTZ and RENEE CHEATHAM,

Petitioners,

-against-

NEW YORK STATE EDUCATION DEPARTMENT,
SHANNON TAHOE, in her official capacity as Interim
Commissioner of Education of the New York State
Department of Education, and TEMITOPE AKINYEMI,
in her official capacity as Chief Privacy Officer of the New
York State Education Department,

Respondents,

For a Judgment Pursuant to Article 78
of the Civil Practice Law and Rules

Index No. _____

NOTICE OF PETITION

ORAL ARGUMENT
REQUESTED

PLEASE TAKE NOTICE that, upon the annexed Verified Petition of James Schultz and Renee Cheatham, verified on June 22, 2020 (the “Petition”); the Affirmation of Stefanie D. Coyle, dated June 22, 2020, and the exhibits thereto; the Affidavit of Daniel Schwarz, dated June 22, 2020, and the exhibits thereto; the Affidavit of James Shultz, dated June 22, 2020, and the exhibits thereto; the Affidavit of Renee Cheatham, dated June 22, 2020, and the exhibits thereto; Petitioners’ Memorandum of Law in Support of the Verified Petition, dated June 22, 2020; and all of the papers, pleadings had and filed, the undersigned will move this Court, at the Supreme Court of the State of New York, County of Albany, 16 Eagle St, Albany, NY 12207, on Friday, July 17, 2020 at 9:30 a.m., or as soon thereafter as counsel may be heard, for an order and judgment pursuant to Article 78 of the Civil Practice Laws and Rules (“CPLR”) granting the Petition and specifically:

- a. annulling, vacating and setting aside the determination made by the Respondents that no student data, as that term is defined in New York State Education Law § 2-d (“Education Law § 2-d”) and its implementing regulations, 10 N.Y.C.R.R. Part 121 (“Part 121), is implicated by the utilization of a face recognition technology system by the Lockport City School District (“Lockport”)(the “Lockport FRT Determination”) and to declare that the Lockport FRT Determination was affected by an error of law and that Respondents acted in an arbitrary and capricious manner, and/or abused their discretion in making it;
- b. ordering Respondents to revoke NYSED’s November 27, 2019 letter that gave Lockport permission to activate its face recognition system and to direct Lockport to de-activate its face recognition system;
- c. ordering Respondents to engage in further review of the utilization of face recognition technology systems in New York State schools; and
- d. granting Petitioner all other relief as this Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that pursuant to C.P.L.R. § 7804(c), answering papers, if any, shall be served and filed at least five days before the return date of this application

and reply papers will be served at least one day before that date.

Respectfully Submitted,

Dated: June 22, 2020
New York, New York



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