

APL-2025-00188

To be Argued By: Robert Desir
Time Requested: 10 Minutes

Court of Appeals
State of New York

In the Matter of the Application of
MARIE VINCENT, CAROLINA TEJADA, MARY CRONNEIT, SUSAN ACKS,

Petitioners-Respondents,

—against—

MAYOR ERIC ADAMS, in his official capacity
as Mayor of the City of New York, THE CITY OF NEW YORK,

Respondents-Appellants.

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BRIEF FOR PETITIONERS-RESPONDENTS

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June 22, 2026

THE COUNCIL OF THE CITY OF NEW YORK,

Petitioner-Plaintiff-
Respondent,

—against—

MAYOR ERIC ADAMS, in his official capacity
as Mayor of the City of New York,

Respondent-Defendant-
Appellant.

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PRELIMINARY STATEMENT

The Court below, the Appellate Division, in a unanimous decision, correctly held that the challenged CityFHEPS laws are fully consistent with the system of “State-local collaboration” embodied in the Social Services Law. As Appellants themselves argued below, State law vests local social services districts with the power to propose initiatives such as the CityFHEPS expansion laws, and the Appellate Division correctly reasoned that since the City of New York constitutes a social services district, its authority is possessed by both the executive and legislative branches of City government. The Court’s conclusion did not infringe in any way upon the State’s ultimate authority to review and approve any plan proposed by the City district, and therefore was consistent with the State’s ultimate authority in the area of social services.

Appellants now expound the new argument that State law delegates power over new initiatives solely to local social services commissioners and *not* to the social services districts, but their claim finds no support in the language or structure of the Social Services Law. The statutory scheme does not vest exclusive policymaking authority in local social services officials, but creates a coordinated structure in which local legislative enactments, administrative implementation, and State oversight operate together.

Appellants' contrary position undermines the democratic form of government guaranteed to localities by the State Constitution and Home Rule Law, without promoting any of the objectives of the Social Services Law. The Appellate Division correctly found no basis in the statutory text or structure for excluding the Council from proposing social services initiatives and the order below should be affirmed.

LEGAL ARGUMENT

A. THE APPELLATE DIVISION CORRECTLY FOUND THAT THE SOCIAL SERVICES LAW DOES NOT PREEMPT LOCAL LEGISLATIVE ACTION IN THE FIELD OF RENTAL ASSISTANCE.

Appellants concede that State law allows flexibility for localities to take initiative in the area of social services. Appellants' Brief at 23. Simply put, this dooms their arguments based on "field preemption." Appellants further concede that nothing in the concept or substance of CityFHEPS or its expansion conflicts with any provision of State law, as Appellants themselves have successfully proposed such initiatives in the past. Appellants' Brief at 2. This likewise dooms their "conflict preemption" arguments. Appellants further fail to explain how such initiatives can possibly conflict with State law when the statutory scheme gives the State authority to reject proposals that present potential conflicts.

Appellants therefore attempt to wriggle out of the field/conflict preemption framework, arguing that preemption “does not turn on semantics” but instead “focuses on relevant structural principles and the legislation’s actual implications.”¹ Appellants’ Brief at 23. As set forth below, such an argument is unavailing: if the State has not occupied a field, and local law does not conflict with any provision of State law, there simply is no preemption.

1. The State did not Intend to Occupy the Field of Social Services or Rental Assistance.

The Appellate Division correctly concluded that the Social Services Law does not preempt the field of social services or rental assistance. Field preemption only applies where the State has clearly expressed an intent to assume full regulatory control and leave no room for local action. *DJL Restaurant Corp. v. City of New York*, 96 N.Y.2d 91, 95–96 (2001); *Jancyn Mfg. Corp. v. County of Suffolk*, 71 N.Y.2d 91, 97–99 (1987). A finding of field preemption may be based on either an express statement or an implied legislative intent, inferred from the nature, scope, and purpose of the statutory scheme and any need for statewide uniformity. *New York State Ass’n for Affordable Hous. v. Council of City of New*

¹ Despite its use of the word “semantics,” *Matter of Lansdown Ent. Corp. v. New York City Dep’t of Consumer Affs.*, 74 N.Y.2d 761 (1989), involved a straightforward conflict between a City law that prohibited cabaret patrons from continuing to drink until 4:30 am, and a State law that allowed precisely such conduct. *Lansdown* does not stand for the proposition that the framework of preemption jurisprudence may be discarded whenever it may be inconvenient.

York, 141 A.D.3d 208, 213 (1st Dep’t 2016), citing, *Albany Area Builders Ass’n. v. Town of Guilderland*, 74 N.Y.2d 372, 377 (1989).

The Appellate Division correctly found that “nowhere in the Social Services Law has the Legislature stated an intention to preempt local legislation relating to rental assistance.” *Matter of Vincent v Adams*, 243 A.D.3d 1,10 (1st Dep’t 2025). To the contrary, the Social Services Law provides that “each public welfare district shall be responsible for the assistance and care of any person who resides” there, SSL § 62, and designates “the city of New York” as a “social services district.” SSL §§ 56, 61. The SSL mandates that the City’s powers and duties as a social services district must be exercised “insofar as consistent with the provisions of the special and local laws relating to such city.” SSL § 56. Social Services regulations, moreover, expressly authorize social services districts to provide “additional monthly shelter supplements” tailored to local needs. 18 NYCRR § 352.3(a)(3). The result of this collaborative structure is “State-approved rental assistance tailored to local needs, as opposed to statewide uniformity.” *Vincent*, 243 A.D.3d at 11.

Appellants, in their Brief, cite to no section of the SSL that explicitly divests social services districts of their power to propose initiatives for OTDA’s approval in the area of rental assistance or any other aspect of social services. Appellants cite provisions establishing the positions of county and city commissioners

(Appellants’ Brief at 30, citing SSL §§ 65, 71), but these statutory sections do not strip social services *districts* of their delegated powers, as recognized by the plain language of Section 352.3 of the regulations.

With respect to implied preemption, the Appellate Division noted that “the State policy regarding social services, generally, and rental assistance, specifically, is one of State and local collaboration, subject to State coordination.” *Vincent*, 243 A.D.3d at 11. The Court also found that “while the Social Services Law and its accompanying regulations represent a comprehensive and detailed regulatory scheme, that scheme provides room for material local input,” noting the long history of City initiatives in the “social services realm.” *Id.*

The Appellate Division based its analysis, in part, on this Court’s recent decision in *Glen Oaks Vil. Owners, Inc. v. City of New York*, 44 N.Y.3d 468, 473-475 (2025), which found no State intent to bar localities from legislating in the field of climate change. As in the present case, the Court in *Glen Oaks* noted the “long-standing involvement of localities in regulating” in that area. *Id.*, at 475. *Compare, Vincent*, 243 A.D.3d 1, 11 (“the City Council has many times exercised its legislative power in the social services realm.”) The *Glen Oaks* Court also relied on provisions in the Climate Act that specifically required compliance with local laws, as does Social Services Law § 56. 44 N.Y.3d at 476. Similarly, in *Police Benevolent Ass’n*, 40 N.Y.3d 417, 425, this Court found no State intention to pre-

empt the field of strangulation-related criminal offenses, noting that it had “long recognized that municipalities may enact laws that supplement criminal offenses established by the State.” The Appellate Division was therefore correct in concluding that the Legislature and State DSS designed the system to foster local innovation and responsiveness to local housing conditions, not to impose rigid “statewide uniformity.” *Vincent*, 243 A.D.3d at 11. ²

Appellants now claim for the first time on this appeal that the Social Services Law, by delegating certain administrative powers to local social services *officials* creates a form of implied “field preemption” that precludes social services *districts*, and the branches of government that comprise them, from proposing any initiatives for approval by the State. Appellants’ Brief at 42-45. As explained in Point II, *infra*, the language Appellants cherry-pick from scattered provisions of the SSL does not undermine the Appellate Division’s conclusion that the New York City social services district possesses the power to take initiatives in the area of rental assistance, subject to State approval.

² The Appellate Division’s holding was consistent with this Court’s decision *Hernandez v. Barrios-Paoli*, 93 N.Y.2d 781 (1999), holding that the City could enact legislation governing eligibility review procedures. This Court concluded that the relevant provisions of the SSL provided only a “skeletal framework” and that the local law permissibly operated within that framework to effectuate State objectives. *Id.* at 787-88.

2. The CityFHEPS Laws do not Conflict with the State Social Services Law.

The Appellate Division also correctly held that “the FHEPS reform laws do not conflict, directly or indirectly, with State law.” *Vincent*, 243 A.D.3d at 12. Following *Police Benevolent Assn.*, 40 N.Y.3d at 426, the court noted that “[A] local law is conflict preempted only if it directly or expressly conflicts with state law.” In the proceeding below, Appellants argued that the State had delegated the right to propose initiatives on rental assistance to the local social services districts, of which “the City of New York” was one. Relying on the plain language of the SSL, the Appellate Division rejected Appellants’ argument that “the City of New York” must be read as meaning City DSS rather than the City government as a whole, including the Council. The Court then properly concluded that the Council, as part of the City Social Services district, could take initiatives without posing any conflict with State law.³

Although, as discussed more fully *infra*, Appellants now attempt to shift ground and argue that the State intended to delegate authority to the City commissioner, not the City district, see Appellants’ Brief at 30, OTDA regulations

³ At no point in this litigation have Appellants claimed that any *substantive* provision of the CityFHEPS Laws conflicts with any substantive provision of State law or regulation. Indeed, Appellants acknowledge that OTDA approved the general CityFHEPS scheme in 2018. Appellants’ Brief at 2.

clearly empower the *districts* to propose initiatives on rental assistance.⁴ The Appellate Division was therefore correct in finding no conflict preemption barring enforcement of the CityFHEPS laws.

B. THE SOCIAL SERVICES LAW DOES NOT DIRECT WHICH BRANCH OF NYC GOVERNMENT CAN TAKE INITIATIVE IN THE AREA OF SOCIAL SERVICES.

Appellants argue that the Social Services Law delegates power to propose social services initiatives only to City DSS and its Commissioner, and not at all to the City Council, arguing that without an express delegation of power to the Council, the Council is stripped of its constitutional role in setting City policies. Appellants' Brief, at 34. Appellants' argument, however, fundamentally misunderstands the source of the Council's authority.

The New York State Constitution requires local governments to include a "legislative body elected by the people thereof" with the "power to adopt local laws." N.Y. Const., Art. IX, § 1. The Constitution explicitly empowers local legislatures to adopt local laws that provide for the "government, protection, order, conduct, safety, health and well-being of persons or property therein." N.Y.

⁴ "A social services *district*, with the approval of the Office of Temporary and Disability Assistance, may provide additional monthly shelter supplements to public assistance applicants and recipients who will reside in private housing, or who currently reside in private housing and are facing eviction. Social services *districts* choosing to provide such supplements must submit a plan to the Office of Temporary and Disability Assistance ... [emphasis added]" 18 NYCRR § 352.3(a)(3).

Const., Art. IX, § 2(c)(10); Municipal Home Rule Law § 10(ii)(a)(12). The New York City Charter designates the Council as New York City’s legislative body, which therefore possesses the powers delegated in Article IX. New York City Charter §§ 21, 28.

In Matter of N.Y. Statewide Coalition of Hisp. Chambers of Commerce v. NYC Dep’t of Health and Mental Hygiene, 23 N.Y.3d 681, 693 (2014), this Court recognized that “the City Council is the sole legislative branch of City government,” and that the Board of Health, although created by the State legislature, must act within the parameters set by the Council. The Court noted that “the City Charter unequivocally provides for distinct legislative and executive branches of New York City government.”

The State legislature, when enacting the various provisions of the Social Services Law, was of course aware of the powers of local legislatures under New York’s system of Home Rule, and would have made express provision if it intended to curtail those powers. Thus Appellants’ analysis of the SSL is exactly backward – to the extent that the legislature did not explicitly divest local legislatures of their usual powers, it must be presumed to have intended to maintain the allocation of power long established in the State Constitution and Municipal Home Rule Law.

The Social Services Law, moreover, does explicitly confer powers on

“social services districts,” making them “responsible for the assistance and care of any person who resides in or is found within the district, and is in need of public assistance and care.” SSL § 62(1). The statute identifies “[t]he city of New York” as “a city social services district,” and declares that “[t]he city of New York shall have all the powers and duties of a social services district.” SSL § 56, 61(1). The Appellate Division rightly found that “the city of New York,” as used in the statute, must be given its “plain, commonly understood meaning” as “the City itself and all of its constituent parts, including Appellants and the City Council.” *Vincent*, 243 A.D.3d 1, 13. The Appellate Division therefore concluded correctly that the Council has “the right to pass local laws crafting putative shelter supplements.” *Id.*⁵

Throughout the proceedings below, Appellants argued vociferously that it was the social services district that had the right to submit proposals regarding shelter supplements to OTDA, and that the City DSS Commissioner had the sole power to do so because City DSS, not the City itself, constitutes the “social

⁵ Contrary to the Appellants’ contention, Appellants’ Brief at 1, 26, the Appellate Division’s decision does not “commandeer” or “usurp” the power of the Commissioner to propose her own initiatives, as City DSS admirably did at the inception of the CityFHEPS program. Rather, the two branches of City Government, as always, work in tandem, with the Executive Branch free to take initiatives within the parameters of the laws enacted by the Legislative Branch.

services district.”⁶ *See, Id* at 12. Now, ironically, Appellants have switched positions: no longer disputing that the City district is the City itself, they contend that the district has no power to propose social service initiatives because only the DSS Commissioner – *rather* than the district itself – may do so. Appellants’ Brief at 30 (“Local social services districts are not ‘actors’ at all ... it is city and county commissioners who have the powers of administration.”)

To the extent that this court decides to address Appellants’ belatedly adopted argument at this appellate level, it should reject the tortured reading of the Social Services Law that is required to support their new-found contentions. Appellants now assert that although the City social services district is “responsible” for the social services needs of its residents, only the City Commissioner has powers of *administration*, which they claim are synonymous with the power to propose initiatives like the CityFHEPS expansion. The main problem with this argument is that the Social Services Law nowhere spells out the distinction between “responsibility” and “administration” that Appellants assert. Appellants point to Sections 65 and 77 of the Social Services Law, which empower district

⁶ See, Appellants’ Answer, par. 85 “the SSL and its regulations delegate authority to the City social services district to establish and administer its own social services rent supplement program,” (R-88); *id.*, par. 93 (“City DSS operates both the CityFHEPS and State FHEPS as an arm of the State, and it does so pursuant to its delegated authority as a social services district.”) (R-89); Appellants’ Memorandum of Law, p.2 (“This Court’s job is straightforward: to decide which entity serves as the “social services district” that has received authority from the State to set social services policy. Because the “social services district” is City DSS, the Court must deny the petition.”) (R-190)

commissioners to “administer” public assistance, but these sections give no support to their contention that “‘administration’ is where the real substantive power lies.” Appellants’ Brief at 32. Indeed, Appellants also cite SSL § 61 which charges the districts themselves, rather than the commissioners, with “administration of public assistance and care,” suggesting that the legislature did not intend to make any substantive distinction between the “responsibility” of the districts and “administration” by the commissioners.⁷

Rather, the term “administration” must be given its usual and plain meaning of carrying out and implementing local policy, rather than framing and creating policy priorities, historically the role of the local legislatures. *See, Statewide Coalition of Hisp. Chambers*, 23 N.Y.3d at 695 (“the Board’s authority, like that of any other administrative agency, is restricted to promulgating ‘rules necessary to carry out the powers and duties delegated to it by or pursuant to federal, state or local law,’” *citing*, New York City Charter § 1043[a]).

Appellants also misapprehend the Appellate Division’s reference to SSL § 56, which that court cited for the uncontested proposition that “the city of New York shall have all the powers and duties of a social services district.” *Vincent*, 243 A.D.3d at 12. The Appellate Division went on to reason correctly that because the

⁷ *See also*, SSL § 73: “The county social services *district* shall, after the date fixed by such resolution, be responsible for administration of public assistance and care in all of the towns of its district.” [emphasis added]

New York City district comprises both the executive and legislative branches of the City, both could exercise the district’s “powers and duties.” Although Appellants devotes much analysis to another phrase in Section 56 stating that the powers of the City social services district must be “consistent with the special and local laws relating to” New York City, that second phrase actually played no part in the Appellate Division’s analysis.

At its heart, Appellants’ argument improperly seeks to recast a dispute over the allocation of power *within* City government as a question of State-City preemption. Although Appellants portray the City Social Services Commissioner as an independent agent of State OTDA, not subject to City control, she is in fact not an employee of State government, but an appointee of the Mayor who is answerable to the City Administration as well as to the State Commissioner.⁸ Had the legislature intended the City Commissioner to be entirely independent of City government, it could have so provided, but instead it created a scheme where the Commissioner is a member of the City’s executive branch, responsible *both* to OTDA and to the City government to which she belongs.

Since the legislature’s scheme provides for dual accountability to the State

⁸ Appointments of commissioners “shall be made by the appropriate county or city body or officer.” SSL § 116(1). “As used in subdivision one “the appropriate county or city body or officer” shall mean and refer: (b) in the case of a city, to the mayor, manager, other officer, or the board having authority to appoint department heads or the chief executive officer of the social services department.” SSL § 116(3).

and the City governments, there is no reason to believe that the legislature intended that within the City government, the Commissioner should be subject only to the direction of the Mayor and not to the City's legislative body. Rather, the State scheme contemplates that the City Commissioner forms part of the City government and, therefore, is subject to all the same checks and balances in the City Charter as the mayors who appoint them.

In either case, State OTDA retains the authority to approve or disapprove local initiatives, and the overarching structure of the Social Services Law is preserved, while also preserving the separation of powers principles inherent in the democratic form of local government guaranteed by both State and City law. Appellants are therefore wrong in reading the State statutory scheme as conferring a privileged position for the Mayor as opposed to the City Council, giving the former a role in formulating social services policy while excluding the latter under the rubric of "field preemption."

Accordingly, this Court should uphold the holding of the Appellate Division below that the Council, as part of the City social services district, has "the right to pass local laws crafting putative shelter supplements," subject to ultimate approval by the State.

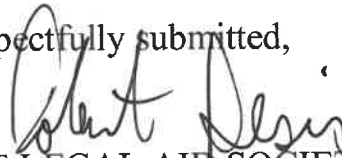
CONCLUSION

The Appellate Division correctly held that the City Council, as part of the New York City social services district, has the right to pass local laws crafting initiatives in the area of social services, subject to consideration and approval by the State. The Appellate Division's ruling should be affirmed.

Dated: June 22, 2026

New York, NY

Respectfully submitted,



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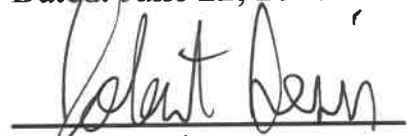
AFFIRMATION OF COMPLIANCE

The undersigned attorney certifies that this brief complies with the typeface, type-style, and word count requirements of 22 NYCRR Part 500.

The brief was prepared on a computer using Microsoft Word. The typeface is Times New Roman, proportionally spaced, with a 14-point font in the body and a 12-point font in the footnotes.

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Dated: June 22, 2026

A handwritten signature in black ink, appearing to read "Robert Desir", written over a horizontal line.

Robert Desir
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