

- Tim Kremer, Executive Director of the New York State School Boards Association, cited a report prepared for the New York Partnership “that had asked for the council of great city schools to weigh in on the appointed versus elected and mayorally appointed and such. I think the report came back saying that the governance structure in and of itself is not going to make it or break it as far as student results. That a [sic] more important ingredients are strong consistent leadership, highly qualified teachers and a supportive community. The supportive community I think is key to what you’re talking about here and I really do believe that there needs to be away [sic] in which people at least [felt] they’ve had a say in who their representatives are. It may be that there [sic] appointed but after going through some qualifying test or it may be they’re elected. I suspect an appointment process would work just as well.”⁷⁸
- Leonie Haimson, Chair of “Class Size Matters” and a member of “Advocates for Public Representation and Public Education,” suggested “a mixture of elected and appointed members, from three different groups. Some should be appointed by borough presidents and/or the community boards, who are often more in tune with the needs and desires of their constituents, than the members of present day school boards are. These could be parents advocates or simply other stakeholders who are involved in [sic] active an [sic] educational affairs. Some should be elected directly by the voters, but these elections should be scheduled at the same time as regular city-wide elections, so as to ensure greater turn out than presently occurs. The majority of those on these councils should be chosen from the parent members of the district school leadership teams ... These are the people on the front lines”⁷⁹
- Kenneth Cohen, President of the Northeast Queens Chapter of the NAACP, and member of Community School Board 25 (Queens), supported elections, but noted a significant problem: “I would, not wanting [sic] to give up the voting process because everybody has the right to vote, but there are also those individuals not involved in the process that wind up in the voting system for the current community school board process which involves and develops into a political being which takes away from the education process which, in my own personal feeling, has destroyed some of the true meaning of what community schools boards were meant in 1972 through that long battle to get to this decentralization process.”⁸⁰
- Mimi Lieber, founder and chairperson of Literacy Inc., and a former member of the State’s Board of Regents, questioned by a Task Force member about whether election or appointment was better, responded, “I can’t say that one way is better. Really you find a community where it’s just amazing. There’s a tradition of the finest people running for the School Board and it becomes a very honorable post in that community and people

⁷⁸ Task Force Transcript, Dec. 10, 2002, pp. 84-85. (Exhibit 5.)

⁷⁹ Task Force Transcript, Dec. 10, 2002, pp. 162-163. (Exhibit 5.)

⁸⁰ Task Force Transcript, Dec. 12, 2002, p. 46. (Exhibit 6)

look up to it. And then there are places where it's not as honorable, and it's considered a goody that you get and makes you important."⁸¹

- Rosemarie Izzo, current president of Community School Board 20 (Brooklyn), recommended that "schools could be grouped and one parent elected from each group of schools to ensure representation from all schools."⁸²
- Council member Eva Moskowitz, Chair of the Education Committee of the City Council, submitted a proposal from her committee for Parent Councils with 9 appointed members, including five appointed by Council members and four appointed by Borough Presidents. She noted that this proposal is modeled on community boards, which are appointed by Borough Presidents, "which have functioned, in my view, reasonably well."⁸³

6. Process for evaluating candidates

In the course of discussing the relative merits of election and appointment, some speakers proposed that the new method of selecting representatives involve a process for evaluating candidates:

- Bonnie Rogers, a former PTA president, member of school leadership teams and member of the President's Council for District 29 (Queens), who has also served on the District Advisory Council, the Citywide Advisory Council and the State Advisory Council, urged that "we keep the school boards in tact but that we have qualified people on the school boards. People that have to go through requirements just as when you need a Superintendent or a [sic] Assistant Principal or Principal, you have a C-30 Committee⁸⁴ that's formed by the parents and the school members to screen people Well, I think that we should develop some kind of screening process for school board members, not just that they are popular because that's not what we're looking for. We're looking for qualified people to be on the boards. If that were the case and the school boards weren't

⁸¹ Task Force Transcript, Dec. 19, 2002, p. 190. (Exhibit 7)

⁸² Task Force Transcript, Jan. 16, 2003 (evening session), p. 135. (Exhibit 11)

⁸³ The "community boards" to which Council member Moskowitz referred are appointed by Borough Presidents and perform functions related to city planning and budget processes. The community boards each have up to 50 members. At least half the members of each board are appointed upon the recommendation of council members from council districts within the community district. There are 59 community boards in the City. New York City Charter §2800.

⁸⁴ Chancellor's Regulation C-30, <http://docs.nycenet.edu/dscgi/admin.py/Get/File-495/C-30.pdf>, establishes a screening process for supervisory candidates. Parents are involved in the screening committee, along with school staff and union representatives.

being used as stepping stones for politicians to go into the political realm maybe they wouldn't have as many problems as they have had.”⁸⁵

- Cassandra Mullen, a member of the Task Force, responded that “I take to heart your statement that there needs to be some kind of a screening process so that the people who are elected aren't just politically ambitious and don't just use it as a stepping stone for something else.”⁸⁶
- Steven Greenberg, President of Community School Board 27 (Queens), favored an elective system, but offered an alternative: “I think it should be an elected group. And also if that cannot be done, I think what you can do is set up a process where by [sic] each of the schools in any individual district could come up with representatives who would interview, in my case you'd have 38 different representatives coming into interview people who would like to serve ... and let the parents of the district decide who it is who represents them. If it didn't cannot [sic] be done by a regular vote, just have representative of each school come in and interview perspective [sic] candidates and let that group chose [sic] whoever it is, whatever their representatives are.”⁸⁷

7. New governance body focused on special education

Some speakers identified a need for a special governance body to focus on students receiving special education services in programs operated by District 75, a citywide district formed solely of schools providing special education services. Its 22,000 students are in 58 school organizations, at over 350 sites, in community schools, high schools, special education schools, hospitals, agencies, and in homes.

- Patricia Cruz, President of the Presidents' Council for District 75 pointed out that District 75 serves 22,000 students, but does not have a community school board of its own. She urged the Task Force “[W]hatever you decide, please have a separate component for special ed in District 75.”⁸⁸
- Michelle Dudley, President of the parent association for P.S. 177 (Queens), a school for children with autism, children who are emotionally disturbed and multiply handicapped,

⁸⁵ Task Force Transcript, Dec. 12. 2002, pp. 87-88. (Exhibit 6)

⁸⁶ Task Force Transcript, Dec. 12. 2002, p. 98 (Exhibit 6)

⁸⁷ Task Force Transcript, Dec. 10, 2002, p.114. (Exhibit 5.)

⁸⁸ Task Force Transcript, Dec. 12. 2002, p.333. (Exhibit 6)

seconded the call for a separate body for District 75, and stated that parents should outweigh others on the team.⁸⁹

- Doris Destoso, Vice President of P.S. 177 in District 75 (Queens), co-chair of a school leadership team and a member of the board of directors of a service agency for treatment of autism, testified that “For the many years of the existence of the school boards, the severely disabled have never had a school board who understands this population or represents them in any way that can be helpful. *** I strongly urge this governance committee to create a special school board of District 75 parents, inclusion [sic] parents, educators and service providers who sincerely care about our children”⁹⁰
- Jacquelyn Tripodi, co-chair of the District 75 Presidents’ Council, advocated for a separate local governance body for District 75, where parent members would be elected by parents.⁹¹

D. Proposal to the Task Force from Mayor Bloomberg and Chancellor Klein

On January 16, Dennis Walcott, Deputy Mayor for Policy,⁹² and Chancellor Klein presented to the Task Force the Mayor’s and Chancellor’s proposal for “Parent Engagement Boards.” This proposal was based in part on information garnered from meetings with over 50,000 parents and community members that were held as part of the Chancellor’s “Children First” community engagement initiative.⁹³

The Deputy Mayor testified that a new governance system should (1) consist entirely of parents chosen by parents; (2) honor the spirit and the requirements of the Voting Rights Act; (3) take politics out of the process; (4) provide a forum to hear the concerns of parents, give input into the plans and performance of the Department of Education, and be a resource to the superintendents and the Chancellor, and (5) be comprised of parent leaders in the district’s

⁸⁹ Task Force Transcript, Dec. 12, 2002, p.335. (Exhibit 6)

⁹⁰ Task Force Transcript, Dec. 12, 2002, pp. 399-400. (Exhibit 6)

⁹¹ Task Force Transcript, Jan. 6, 2003, p. 111. (Exhibit 9) Similar testimony was offered by Ms. Tripodi’s co-chair Joan Correale and by Anne Marie Caminiti, Director of Parent to Parent, a past PTA president, and past president of the Staten Island Federation of PTAs, Id. at 98, 102.

⁹² The Deputy Mayor, who is African American, previously served as a member of the New York City Board of Education, and as a temporary trustee of Community School Board 5.

⁹³ Task Force Transcript, Jan. 16, 2003 (day session), written testimony of Deputy Mayor Walcott. (Exhibit 10)

schools.⁹⁴ He stated, “Changing these structures to parent only entities is critical. We cannot risk a return to the highly politicized situation that has existed in many districts for the last 30 years. In the past, these boards became mired in the politics of decisions ranging from awarding contracts for repairs, to selecting principals, to hiring paraprofessionals and school aides. I envision that these new boards, because of their parent-only design, can stay above the political fray and focus on the challenge of educating our children.”⁹⁵

In his testimony, Chancellor Klein focused on initiatives to address an issue identified by many who testified before the Task Force: parents need training in order to participate effectively in governance and to promote their children’s education in other ways. These initiatives include:

- Establishing the new position of Parent Coordinator, to be appointed by the principal of each school and “trained to play a key role in listening and responding to parent concerns.”⁹⁶
- Establishing ten Parent Support Offices across the City, staffed by Parent Support Officers who will support the work of Parent Coordinators, and open two evenings a week and on weekends, in addition to regular business hours.⁹⁷
- Establishing a Parent Academy, where “Parent Coordinators will provide school-based workshops to parents on everything from understanding curriculum to forging the school-home connection and strengthening parent leadership and participation, including in key organizations like Parent Associations and School Leadership Teams.”⁹⁸
- Including parent engagement standards in each principal’s performance review.⁹⁹

Speaking about his vision for the Parent Engagement Boards, Chancellor Klein proposed that “they should have several functions in common with the current community school boards, as well as some new functions,” including meeting regularly with superintendents; having input into evaluation of superintendents and local instructional supervisors; serving an ombudsperson

⁹⁴ Id.

⁹⁵ Task Force Transcript, Jan. 16, 2003 (day session), pp. 59-60. (Exhibit 10)

⁹⁶ The Parent Coordinator position is discussed *infra* at Part V B.

⁹⁷ In addition to the ten Parent Support Offices described in the testimony, another three “satellite” Parent Support Offices have been established.

⁹⁸ The Parent Academy is discussed *infra* at Part V B.

⁹⁹ Task Force Transcript, Jan. 16, 2003 (day session), pp. 61-68. (Exhibit 10)

function; commenting on capital and operating budget priorities; and participating in zoning decisions.¹⁰⁰

E. Task Force Report

The Final Report of the Task Force Community School District Governance Reform was issued on February 15, 2003. A copy is attached hereto as Exhibit 14.

1. Recommendations for “Community District Education Councils”

The Task Force recommended that there be an eleven member “Community District Education Council” in each of the City’s community school districts. Eight members would be parents “elected by the parents of students who attend a public school within the District.” Two would be “business, civic or community members appointed by the Borough President,” and one would be a high school senior “appointed by the Superintendent from among the elected student leadership of the high schools of the District.”¹⁰¹ The report further recommended, among other things, that a parent be allowed to vote in only one district, and serve on only one council, that students members serve for one year, and other members for two years, and that the councils be permitted to employ an administrative staff person.¹⁰²

The Final Report recommended that the new councils have the responsibilities, duties and functions currently held by community school boards. In addition, the Final Report recommended that they:

- Review, comment upon and approve the District’s comprehensive education plan submitted by the Superintendent each year. The Community District Education Council shall use this vision and roadmap to focus its efforts on improving student learning and achievement.
- Promote achievement of education standards and objectives relating to the instruction of students as promulgated by the District Superintendent, Chancellor, or State Education Commissioner.
- Hold monthly meetings with the District Superintendent to engage in a dialogue about the State of the Schools and progress made toward the implementation of the District’s comprehensive education plan. The Council will review the quality of the District’s

¹⁰⁰ Task Force Transcript, Jan. 16, 2003 (day session), pp. 69-71. (Exhibit 10)

¹⁰¹ Final Task Force Report, p. 9.

¹⁰² Id., p. 10.

educational programs and assess their effect on student achievement. The Superintendent will provide relevant data to encourage informed and adequate public discussion on student achievement and the state of each school.

- Hold monthly public meetings with the Superintendent during which the public may speak so that parents and the community have a voice and a public forum to air their concerns.
- Submit an annual evaluation of the District Superintendent to the Chancellor.
- Submit an annual evaluation of all other instructional or management supervisory personnel who have responsibility for more than one school within the District.
- Receive from the District Superintendent the Capital Budget, Operating Budget, and amendments thereto; hold public hearings and provide comment to the District Superintendent.
- Provide comment before collective bargaining negotiations to the Chancellor and Mayor concerning provisions in union contracts that impact the school's quality of life.
- Be responsible for zoning of elementary and middle schools in the District.
- Hold a public hearing on the District's annual capacity plans recommended by the Superintendent and based on data from the Chancellor on enrollment/utilization of each school. Submit the plan, approved by the Board and the Superintendent, to the Chancellor for his review.
- Be responsible for District safety plans and make amendments thereto.
- Have regular communication with all parents and parents' associations in the District, providing important information on student achievement and seeking input from the parents on school improvement.
- Provide input, as it feels necessary, to the Chancellor and the Citywide Board of Education on matters of concern to the school District.
- Establish well-considered policies that focus on improving student achievement, consistent with central policies.
- Marshal public and private engagement with and support for District schools.
- Liaison with school leadership teams as may be necessary and provide assistance to the school leadership teams where possible.



- In order to carry out their responsibilities in an effective way and to ensure that all Districts are served equitably, Community District Education Council members shall as required by the Chancellor participate in ongoing training and development.

2. Recommendations for the “Citywide Special Education District”

The Task Force also recommended the creation of “a new board for the Citywide Special Education District,” to consist of 8 parents elected by parents of students attending a school in that district (known as District 75), “2 persons with experience or knowledge of the disability community selected by the Speaker of the NYC Council; and one high school senior selected by the Superintendent.”¹⁰³

3. Adoption of the Task Force recommendations and additional reforms in Chapter 123

Chapter 123 generally follows the recommendations of the Task Force. Instead of eight parent members, the Legislature decided that the CDECs should have nine parent members. The Legislature also specified that the selection of the parent members will be made by the “presidents and officers” of the parent associations and PTAs. Educ. L. §2590-c(1)(a). Use of this selection procedure, rather than a direct election by the parents, should reduce the amount of politicking that has occurred in community school board elections in the past, which many legislators and persons who testified before the Task Force and other bodies have found objectionable and counterproductive to the interest of education, as discussed in Part VI of this submission.¹⁰⁴ In addition, it is anticipated that placing responsibility with the officers, as provided by Chapter 123, in combination with the candidate forum and feedback process for involving all parents and members of the public which the Chancellor has adopted in the implementing regulations¹⁰⁵ will provide a better means to judge the candidates on the merits

¹⁰³ *Id.*, p. 13.

¹⁰⁴ See, e.g., Assembly member Roger Green’s statement that “If you were to look at most of the 32 school districts throughout the City of New York, what we saw on those boards were patronage brokers far too often who impeded the education of our children.” (Exhibit 26); Council member Ruben Diaz’ characterization of the current system as a “net of corruption, political patronage, and political stepping stones” (Exhibit 25); the criticism of the current system by Richard Daniel, a community school board member, on the ground that it has become “a patronage mill for corruption and political wannabees” (Exhibit 11, p. 152); the statement of a Neyda Franco, a former community school board trustee, that “[I]n this district, it’s all about politics. It’s not about children’s education.” (Exhibit 8, p. 373); and the opinion of Bijou Miller, co-president of a parent council, that “Politicians should not have anything to do with this process, in my opinion, and these opinions are not just mine, they’re held by many parents in my schools.” (Exhibit 5, p. 52).

¹⁰⁵ The Chancellor’s regulations are discussed below at Part VII D.

rather than on their political connections. The new procedure is similar to the processes for screening candidates that were suggested by some who testified before the Task Force, as discussed in Part V C 6 of this submission.

The role of the parent association and PTA officers in selecting parent members of the new CDECs is supplemented, as recommended by the Task Force, with the role of Borough Presidents in appointing two members to each council. This reflects testimony before the Task Force by persons such as Eva Moskowitz, Chair of the Education Committee of the City Council, that the current method of Borough Presidents appointing members to community planning boards has functioned well, and Leonie Haimson, Chair of Class Size Matters and a member of Advocates for Public Representation and Public Education, who stated that "borough presidents ... are often more in tune with the needs and desires of their constituents, than the members of present day school boards are." (Exhibit 5, pp. 84-85).

F. Statement by the Senate Sponsor of Chapter 123

At the floor debate on S 5688, for which he was a prime sponsor, Senator Frank Padavan gave the following synopsis of how the Task Force's recommendations had been incorporated into the bill:

As most of you will remember, last year we totally revamped the educational system in the City of New York, giving the mayor significant authority, restructuring many of the components of that large educational complex of over 1 million students.

One of the things we did in the process was create a task force to report back to us by the middle of February on what to do about our community school boards. They did their work, and they did it rather well, the 10-member task force appointed by both houses.

We took the essence of that study and its recommendations and transposed it into legislation, which is what is before you.

We are creating in each community school district in the City of New York a parent council made up of nine parents; two individuals appointed by the borough presidents, with broader expertise and knowledge beyond the particular district, perhaps; and an ex officio member who is a student.

In addition to having one of these parent councils in each district, we have a citywide council for those children in what we normally refer to as District 75, special ed children. The parents will be on that panel as well However, the two additional individuals would be appointed by the Public Advocate.

The process for selecting the parent members of these councils will be, as required by the legislation, developed by the chancellor. It is required that this be done by the end of October. Those councils then serve for the remainder of a two-year term, and then thereafter they would be reelected or reappointed, I should say, every two years.

That's the essence of the bill.¹⁰⁶

VII. CHANCELLOR'S IMPLEMENTING REGULATIONS

A. Statutory requirements for the regulations

As described above, Chapter 123 delegated to the Chancellor the responsibility to promulgate implementing regulations in several areas:

- **Selection procedures for parent members of the Community District Education Councils**

The law provides that “[s]uch process will outline in detail the procedure which must be followed to present a name for consideration, shall prohibit officers of any parent association or parent-teacher association from being nominated, may include qualifications and prohibitions in addition to those outlined in this section and may allow for an interview process for nominees.” Educ. L. §2590-c(8)(b). The law further provides that these procedures “shall attempt to ensure membership that reflects a representative cross-section of the communities within the school district and diversity of the student population including those with particular educational needs, shall include consideration of the enrollment figures within each community school district and the potential disparity of such enrollment from school to school within the district, and shall ensure that, to the extent possible, a school may have no more than one parent representative on the community council.” Educ. L. §2590-c(8)(c).

- **Selection procedures for parent members of the Citywide Council on Special Education**

The law provides for the parent members to be selected by parents of students who receive such services “pursuant to a representative process developed by the Chancellor.” Educ. L. §2590-b(4).

¹⁰⁶ A transcript of the Senate floor debate is attached as Exhibit 59. We are advised that there is no transcript of the Assembly floor debate available.

- **Parent association and parent-teacher association elections**

The law provides for the Chancellor to “develop a process to ensure a uniform election process for parent associations and parent-teacher associations. Such process shall ensure uniformity with respect to timing of elections and the structure and size of the body. Educ. L. §2590-c(8).

- **Financial disclosure**

The law requires the Chancellor to promulgate rules requiring financial disclosure by nominees for the CDECs. Educ. L. §2590-c(8)(d)

- **Political endorsements**

The law requires the Chancellor to promulgate rules “prohibiting political endorsements of and campaign contributions to nominees” for the CDECs. Educ. L. 2590-c(8)(d)

B. Draft regulations published for comment

Early in September 2003, the Chancellor published proposed regulations implementing Chapter 123 for comment. They are attached as Exhibits 42 - 45.

1. Chancellor’s Regulation D-140 as proposed in September 2003

This proposed regulation (attached as Exhibit 42) described the process by which parent and student members of the Community District Education Councils would be selected. Pursuant to the proposed regulation, an eligible parent could nominate himself or herself for service on the CDEC by submitting an application and a disclosure form to the Office of Community School District Affairs. (The application and disclosure form were attached to the proposed regulation.) A parent selection committee would be convened for each district to select nine of these parent applicants to serve on the district’s CDEC. The selection committee would consist of three officers -- the President, Secretary, and Treasurer -- from the parent association or PTA of each school under the jurisdiction of the CDEC. The parent selection committee would review the applications submitted, and hear a five minute presentation from each person seeking to be selected. The committee members would then each cast nine votes, and the nine parents who received the highest number of votes would be deemed selected.

As noted above, Chapter 123 amends Educ. L. §2590-c(8) to provide that the selection procedures developed by the Chancellor “shall attempt to ensure membership that reflects a representative cross-section of the communities within the school district and diversity of the student population including those with particular educational needs, shall include consideration of the enrollment figures within each community district and the potential disparity of such enrollment from school to school within the district.” Proposed Regulation D-140 reflected these requirements at Part III A 2 d. In addition, Chapter 123 requires that the

Chancellor's regulation "shall ensure that, to the extent possible, a school may have no more than one parent representative on the community council." To accomplish this, Proposed Regulation D-140 provided at Part III A 2 e that if more than one parent from a school sought to be selected, the committee would conduct a preliminary ballot to select one parent nominee from the school. However, this restriction would not apply where fewer than nine parents would be selected if it were enforced.

Chapter 123 also establishes certain eligibility criteria and disqualifications relevant to parent members of the CDECs, as described above in Part IV A. Proposed Regulation D-140 provided at Part IV that if a parent selected by the committee as described above were determined not to be eligible to serve, the parent who received the next highest number of votes would replace that person on the CDEC.

Finally, the Proposed Regulation noted at Part V that the preclearance process might affect the timing of the selection process. It indicated the dates set by the Legislature for the process to be completed by October 31, 2003 and members to take office on December 1, 2003, and noted that these dates might need to be adjusted.

As explained in Part VI D below, the Chancellor made a number of revisions to the regulation prior to adopting it in final form.

2. Chancellor's Regulation D-150 as proposed in September 2003

This proposed regulation (attached as Exhibit 46) described the process by which parent and student members of the Citywide Council on Special Education would be selected. It provided for a parent self-nomination process like the one in proposed Regulation D-140. The selection committee would consist of the President of each parent association or PTA in District 75. Persons seeking to be selected would submit applications and disclosure forms, and make presentations to the selection committee. The committee members would then each cast nine votes, and the nine parents who received the highest number of votes would be deemed selected. If a parent selected by the committee as described above were determined not to be eligible to serve, the parent who received the next highest number of votes would replace that person on the Council. The timing of the selection process would parallel the process for CDECs under Regulation D-140.

As explained in Part VI D below, the Chancellor made revisions to this regulation, similar to those made to D-140, prior to adopting them in final form.

3. Proposed amendments to Chancellor's Regulation C-120

Chapter 123 amends Educ. L. §2590-c(8)(d) to require the Chancellor to promulgate rules requiring financial disclosure by nominees for the CDECs. Proposed amendments to an existing regulation which will implement this requirement are attached hereto as Exhibit 47.

4. Proposed amendments to Chancellor’s Regulation D-130

Chapter 123 amends Educ. L. 2590-c(8)(d) to require the Chancellor to promulgate rules “prohibiting political endorsements of and campaign contributions to nominees” for the CDECs. Proposed Chancellor’s Regulation C-130, a copy of which is attached as Exhibit 48, complies with this requirement of the law by adding this prohibition at I C 3 c.

5. Proposed amendments to Chancellor’s Regulation A-660

Regulation A-660, which governs the parent associations and PTAs, is currently being amended to implement changes conforming with Chapter 123, and other changes not related to the topic of this submission. The revisions relevant here will:

- Change the dates for elections of parent association and PTA officers to require that they be held between the second Wednesday in May and May 31st. This will result in the outgoing officers being the ones who will participate in the selection of the parent officers of the CDECs and the Citywide Council on Special Education, which is required under Chapter 123 to occur by the second Tuesday in May. Educ. L. § 2590-c(2). It will also mean that persons who were unsuccessful in seeking positions as parent members will be able to run for positions as officers of their parent association or PTA.
- Provide that parents, legal guardians, and “persons in parental relation” of children attending public schools are “automatically” members of the parent association or PTA in the school their child attends. Proposed revision at pp. 6, 11. Previously, all parents have been eligible to participate in these bodies, but the regulation allowed the bodies to require registration. A provision which permitted enrollment forms will be deleted.

C. Public Hearings on the Draft Regulations

Chapter 123 provides that “[p]rior to the adoption of the processes, procedures, rules or regulations set forth in this subdivision, the chancellor shall ensure that there is an inclusive public process which allows for sufficient public input from parents and the community including public hearings. All such processes, procedures, rules or regulations must be final in sufficient time to assure for an orderly implementation and notification of processes, procedures, rules or regulations to allow for full community participation in the nomination and selection processes and procedures.” Educ. L. §2590-c(8)(e).

Public hearings on the proposed regulations were conducted in each borough from September 15 – 25. Copies of announcements inviting the public to attend the hearings are

attached as Exhibit 46. The announcement, with links to summaries and copies of the proposed regulations, and translations in 8 languages (Arabic, Bengali, Chinese, Haitian, Korean, Russian, Spanish and Urdu), was posted on the “News and Information” segment of the Department of Education website.¹⁰⁷ The announcement was also sent to all school principals and parent coordinators for distribution to parents in children’s backpacks. Transcripts of the hearings and copies of written submissions commenting on the proposed regulations are attached as Exhibits 47 through 52.

Participants in the hearings had a number of criticisms of Chapter 123. Some objected to the role given by the statute to PTA officers. Some based this objection on a preference for a “one person, one vote” system. Others argued that the parent associations are ineffective, cliquish, or too close to their school principals. Several objected to the statutory provision making current officers of parent associations ineligible to run for parent member seats on the Councils. A number of speakers objected to the lack of a provision for councils focused on the high schools. Some objected to the Borough Presidents’ appointments on the grounds that the Borough Presidents could appoint persons from outside the community. Some criticized the statutory deadlines for not allowing sufficient time to inform the school community about the new system.

As to areas within the discretion of the Chancellor, speakers argued that there should be a better process for candidates to become known to the community before the parent association and PTA officers select the nine parent members. Some argued that the proposed voting scheme did not fairly take into account school size. Several noted that members would need adequate training in order to perform their duties.

Following the hearings, the Chancellor’s staff, in consultation with Dr. John Mollenkopf, an expert in the area of statistical analysis of census data and Dr. Bernard Grofman, an expert on voting rights and redistricting, spent several weeks reevaluating and revising the proposed regulations. Changes were made to offer a greater opportunity for parents and the general public to learn about candidates for the parent member positions on the Councils; create formal opportunities for parents and the general public to inform parent association and PTA officers about their opinions of the candidates before the selection of parent members occurs; change the manner of the selection process from an election held at a district meeting (which some officers might not be available to attend) to a more convenient balloting process that will take place over a period of ten days; and to ensure that the voting scheme provides opportunity for all segments of the school parent community to have candidates of their choice selected as parent members. The final regulations, which were adopted on October 31, 2003, are summarized below.

In addition to responding to the public comments by revising the regulations, the Chancellor is addressing concerns raised about the parent associations and PTAs through the efforts described in Part V B of this submission, which involve greater emphasis on parent involvement in all aspects of the school system, placement of Parent Coordinators at every school, establishment of the Parent Academy, and inclusion of parent involvement in the

¹⁰⁷ <http://www.nycenet.edu/NR/exeres/73E9E3BC-A90D-4D3C-B5AD-50D8C938C03D.htm>.

evaluation of principals. We anticipate that these efforts, combined with the new role of the parent associations and PTAs in selecting the parent members of the Councils, will strengthen these organizations.

The Chancellor is also creating a Citywide High School Council. Although this Council is not mandated by State law, it is responsive to comments made at the public hearings, and will serve to ensure that all parents, including high school parents, are represented in the new governance system. The High School Council will be comprised of nine parents selected in a citywide process by the presidents of each high school parent association or PTA. The process will ensure that each borough has representation and that no more than one parent from the same school is selected. In addition, the High School Council will include two high school students selected by the Chancellor's Student Advisory Council. The Council's duties will include advising and commenting on education and instructional policies involving high schools, issuing an annual report on the effectiveness of high school education and holding regular meetings for the public to discuss issues of importance to high school parents.

D. Final regulations

1. Chancellor's Regulation D-140 – Community District Education Councils

A copy of Chancellor's Regulation D-140, as adopted on October 31, 2003, is attached as Exhibit 56. Under this regulation, any parent of a child attending a public school under the jurisdiction of the community school district may nominate himself or herself to be a parent member of the CDEC.¹⁰⁸ The candidates will fill out application and financial disclosure forms (Chapter 123 requires financial disclosure by the candidates).¹⁰⁹ Appropriate parts of the application, including candidates' statements, will be made public on the Internet and available at Learning Support Centers and District Offices where they can be reviewed by all interested persons, and will be sent to the parent association and PTA officers who will be participating in the selection of parent members.¹¹⁰

Responding to public comment, the final regulation adopts changes from the proposed regulation to allow a greater opportunity for the school community and the public at large to become informed about the candidates and express their opinions to the parent association and PTA officers who are responsible under Chapter 123 for selecting the parent members. A forum will be conducted in each district for candidates to introduce themselves to the school community (including the parent association and PTA officers who will be voting for the parent members) and the public. Written comments on the candidates will be collected at each forum,

¹⁰⁸ D-140 at I A 1.

¹⁰⁹ D-140 at II B.

¹¹⁰ D-140 at II C.

and can also be mailed to the Department of Education Office of Community School District Affairs; they will then be distributed to the parent association and PTA officers. Parent associations and PTAs will be strongly encouraged to conduct meetings at which their members can advise the officers who will be representing their schools in the selection process about their opinions of the candidates.¹¹¹

The Chancellor also revised the voting rules in response to public comment and in light of recommendations from experts in relevant fields.¹¹² The voting period will be extended over a period of ten days instead of occurring at a single meeting, as originally proposed; balloters will be able to drop off their ballots at their district office or mail them to a central location. This responds to concerns raised at public hearings that some of the officers would have difficulty attending a meeting, and should lead to a better and more representative turnout.

Three officers from the PTA or parent association of each school within the community school district – the President, Secretary, and Treasurer – will each be entitled to cast two votes. Thus, instead of a “majoritarian” voting rule with each officer casting nine votes, as originally proposed, the selection will use a “limited voting” scheme that is better designed to ensure equitable representation. As discussed in Part VIII B of this submission, the effect of this limited voting rule is beneficial to minority groups overall, and not retrogressive for any minority group, when viewed in conjunction with the change from the population who participated in the election of community school boards to the parent population represented in the selection of the parent members of the CDECs.¹¹³

¹¹¹ D-140 at IV A – C.

¹¹² The analyses provided by these experts, Dr. John Mollenkopf and Dr. Bernard Grofman, are discussed in Part VIII of this submission.

¹¹³ The Chancellor also considered whether to use a “single transferable voting” (“STV”) method. STV was not chosen because of its complexity and administrative difficulty, including the uncertainties of outcome depending on how ballots are counted, and because it is confusing to those using it. In fact, in enacting Chapter 149 of the Laws of 1998, the State Legislature voted unanimously in 1998 to eliminate this method of voting and change to limited voting with each voter casting four votes. A letter from this office seeking preclearance for Chapter 149, which cites criticism of STV from the press and members of the public, is attached hereto as Exhibit 63. Similar criticisms of STV were voiced at the hearings of the Task Force on Community School District Governance Reform. An LV2 method was chosen over an LV1 method because it would encourage parent association and PTA officers to look at candidates beyond those from their own school and would avoid the problem of tie votes that might occur under an LV1 system if each parent association or PTA officer voted for a candidate from his or her school. In addition, voting for more than one candidate would further the interests identified in Chapter 123, which requires that the selection procedures “shall attempt to ensure membership that reflects a representative cross-section of the communities within the school district and diversity of the student population including those with particular educational needs, [and] shall include consideration of the enrollment figures within each community district and the potential

Continued...

When the ballots are counted, the nine candidates who received the most votes will be deemed conditionally selected, subject to two levels of review. First, because Chapter 123 requires the Chancellor's procedures to "ensure, to the extent possible, a school may have no more than one parent representative on the community council," if there is a case where two or more parents from the same school are among the nine candidates who receive the most votes, only the parent from that school who received the most votes will be deemed selected, and the parent from another school who has received the tenth most votes will be deemed selected. A similar process will be followed in the event there are more such cases. Second, after the balloting the Chancellor will review the applications and financial disclosure forms of the candidates who received the most votes to ensure that they are eligible to serve. In the case of a candidate being found ineligible, the candidate with the next highest number of votes will be deemed selected.

The regulation establishes a schedule for the conduct of the initial elections for parent members to the end that the selection will have been completed by the 90th day after the Department of Justice has made a preclearance determination. The schedule is as follows:

- Days 1 - 30: The selection process is publicized. Parents self-nominate and submit application and financial disclosure forms.
- Days 31 - 35: List of nominees is certified
- Days 36 – 50: Nominees' forum conducted in each district
- Days 51 – 80: Feedback on nominees is received from parents and the public and distributed to the parent association and PTA officers. Parent associations and PTAs conduct meetings to discuss the nominees.
- Days 81 - 90 Parent association and PTA officers vote.

The same timeframes will apply for subsequent years when parent members of the CDECs are selected, such that the process will be completed by the second Tuesday in May as required by Chapter 123.

2. Chancellor's Regulation D-150 – Citywide Special Education Council

A copy of this regulation is attached as Exhibit 57. The revisions made in finalizing the regulation parallel those made to Regulation D-140. In addition, the final rule provides that the

disparity of such enrollment from school to school within the district, ..." Educ. L. §2590-c(8)(c).