

NOTICE OF PETITION

STATE OF NEW YORK

STATE EDUCATION DEPARTMENT

January 2, 2008

In the Matter of Marie Pollicino,
in a class action on behalf of all parents with public
school children, from action of the Chancellor of the City
of New York School District and the NYC Department of
Education regarding the amendment of the regulations (A-
655) governing the rights and responsibilities of School
Leadership Teams.

NOTICE:

You are hereby required to appear in this appeal and to
answer the allegations contained in the petition. Your
answer must conform with the provisions of the regulations
of the Commissioner of Education relating to appeals before
the Commissioner of Education, copies of which are
available from the Office of Counsel, New York State

Education Department, State Education Building, Albany, New York 12234.

If an answer is not served and filed in accordance with the provisions of such rules, the statements contained in the petition will be deemed to be true statements, and a decision will be rendered thereon by the Commissioner.

Please take notice that such rules require that an answer to the petition must be served upon the petitioner, or if he be represented by counsel, upon his counsel, within 20 days after the service of the appeal, and that a copy of such answer must, within five days after such service be filed with the Office of Counsel, New York State Education Department, State Education Building, Albany, New York 12234.

"Please take notice that the within petition contains an application for a stay order. Affidavits in opposition to the application for a stay must be served on all parties and filed with the Office of Counsel within three (3) business days after service of the petition".

STATE OF NEW YORK

STATE EDUCATION DEPARTMENT

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In the Matter of MARIE POLLICINO, Petitioner,

v.

CHANCELLOR JOEL I. KLEIN and the NEW YORK CITY

DEPARTMENT OF EDUCATION, Respondent,

from action of the Chancellor of the City School District of the City of New York regarding the amendment of the Chancellor's Regulations(A-655) governing the rights and responsibilities for School Leadership Teams.

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TO THE COMMISSIONER OF EDUCATION:

1. My name is Marie Pollicino and I reside at REDACTED Douglaston, NY within the City of New York School District. I am a member of the Community Education Council for District 26 in Queens.

2.I reside at REDACTED Douglaston, NY, within the City of New York School District and my son REDACTED attends P.S. 98Q.

3. This petition calls upon New York State Education Commissioner Mills to revoke the section of the revised New York City Chancellor's Regulation A-655, (adopted on December 4, 2007) pertaining to the changes in the regulations that govern the "School Leadership Team Rights and Responsibilities", based upon the flawed process that was used to develop these amendments, as well as the resulting regulation that fatally weakened the core duties of such School Leadership Teams (SLTs), as mandated by State Educational Law (2590h and 2590r), CR100.11 and Chancellor's Regulation B-801.

4) In the amended version of A-655, the Chancellor of the New York City Department of Education has weakened School Leadership Teams, made up of equal numbers of parents and staff, to collaborate in developing a Comprehensive Education Plan (CEP) and a school-based budget aligned with that plan, as the amended regulation calls for the principal to make the final determination on both the CEP and the school-based budget. This is contrary to State Education Law 2590-h, 2590r, CR100.11 and Chancellor's Regulation B-801, which requires the SLT to develop the CEP and budget through shared decision making. In addition, the

previous A-655 as well as the current Regulation requires consensus as the method for decision making which is negated if the Principal makes the final decision on the CEP and budget. The principal is a core member of the Team, not an outside entity or sole decision maker.

5)The amended A-655 also states that, "the principal shall consult with the SLT in developing the school based budget" which is contrary to the previous A655 Regulation and the current B-801 Regulation (both required by State law to put in to effect the intent of the law) mandating that the SLT should collaboratively develop the budget.

6)The amendment also proposes that the CEP should be created only after the budget has already been decided upon unilaterally by the principal, which removes the meaning and import from the process of developing a CEP. The lawful process is for the CEP to be developed and then aligned with the budget (259015-b1).

7) Whereas, this Regulation does not comply with CR100.11 (Shared Decision Making) or State Education Law 2590-h(15) which states that there shall be shared decision-making in a manner "which balances participation by parents and

school personnel (includes the principal) in advising in the decisions devolved to schools pursuant to sections 2590i and 2590-r" (School Based Budgeting).

8) Whereas, this regulation in calling for the principal to develop the budget while only consulting with the SLT is contrary to the previous Regulation (A-655-2004) which stated, "the responsibilities of the SLT are to develop and review the school's CEP, including annual goals and objectives, and to consult with the principal in developing a school based budget and staffing plan aligned with the CEP." This previous A655 Regulation was translated from the regulation pertaining to this issue included in the Chancellor's Guide for School Leadership Teams (or "Green Book") which carried the intent of the law (2590h-15).

9) Whereas, the new Regulation A-655 contradicts B-801, which is the current Regulation on School Based Budgeting, that states that each SLT "shall develop and prepare the school budget request". This regulation is mandated by State law 2590-r, that calls for a comprehensive school-based budgeting process including a "collaborative school based planning process involving parents, teachers, and other school personnel and, where appropriate, students to

effectuate the purposes of this section." (2590r(n))

10) Whereas, the Chancellor has failed to "take all necessary steps to promote the effectiveness and integrity of school based budgeting pursuant to section twenty-five hundred ninety-r of this article" (2590H-35) by fatally weakening the role of School Leadership Teams.

11) Whereas, the process for revising Regulation A-655 was highly flawed, illegitimate and contrary to the rules set forth in 100.11 of the Commissioner's Regulations, which govern the participation of parents and teachers in school based planning and shared decision making. These regulations state that both the rules governing school-based planning and shared decision making and any amendment to these rules must be developed by "each board of education of each community school district and each high school superintendency" in the City of New York. Yet the Community District Education Councils, the bodies comprised of elected parent representatives from each New York City community school district, and as such the legal descendants of the Community School Boards, were not consulted in the amendment of these regulations, nor were any official parent group.

12) Whereas numerous emails and other messages were sent the Chancellor during the comment period, pointing out that the resulting regulation as amended eviscerated the authority of the School Leadership Teams to collaborate in creating the Comprehensive Education Plan and a school-based budget aligned with that plan. One such email we are enclosing with this petition. (Document A)

13) Whereas a letter was also sent to the Commissioner by the Hon. Catherine Nolan, Chair of the New York State Assembly Education Committee, before the amendments were adopted, pointing out that the proposed changes failed to meet the requirements or intent of the legislation which gives important powers and responsibilities to SLT's in the decision-making process of the city's schools. This letter is also enclosed with this petition. (Document B)

14) Whereas the Commissioner's Regulations establish a process by which any aggrieved party can appeal to the Commissioner pursuant to Section 310 of the Education Law, within 30 days of the amended regulations, as we are hereby doing, based on the fact that the amended regulations are contrary to the original conception of school-based

planning and shared decision making, as ensconced in State law and CR100.11, and that the process by which they were adopted was also contrary to law.

15) Therefore, the Commissioner should revoke the language in section "SLT Rights and Responsibilities" of A-655 which states that "the principal makes the final determination on the CEP and the school based budget" and to revoke the statement that "the principal shall consult with the SLT in developing the school based budget", and replace it with the language of the previous Regulation (A-655-2004), namely, that "the responsibilities of the SLT are to develop and review the school's CEP, including annual goals and objectives, and to consult with the principal in developing a school based budget and staffing plan aligned with the CEP". If the Commissioner cannot revoke part of the Regulation, then we ask that the entire revised A-655 regulation be revoked.

16) The Commissioner should order that if any amendments of the regulations governing the rights and responsibilities of School Leadership Teams are proposed, the process of developing those amendments must be initiated by and include the Community Education Councils, as the state law

requires.

17) The Commissioner should also issue a stay order, so that the new amended regulations governing the rights and responsibilities of the School Leadership Teams should be withdrawn until the final determination is made by the Commissioner upon this petition.

18) The basis for such a stay is that the regulations and the process by which these regulations were amended unreasonably remove the rightful authority of School Leadership Teams to collectively determine Comprehensive Education Plans and school budgets, as previously accorded these bodies under law. School Leadership Teams must be allowed to continue to operate in the manner traditionally understood to be their prerogative until and unless the revised regulations and the process by which they were amended are deemed lawful by the Commissioner.

19) This petition is a class action on behalf of all parents of NYC Public school children as they are the constituency for the parents on school leadership teams. Since the lawful responsibilities of SLT's have been weakened by the revised regulation A-655, it affects the

parents rights to have input into decision making on the spending of school monies and the development of the CEP through their SLT representatives.

Dated: January 2, 2008

NAME Marie Pollicino

ADDRESS REDACTED

PHONE NUMBER REDACTED