

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION FIRST DEPARTMENT

In the Matter of

TAMARA TUCKER, and MELANIE KOTLER, individually, and on behalf of all parents and guardians of New York City public school students and PAUL TRUST and SARAH BROOKS, individually, and on behalf of all similarly situated New York City public school teachers,

Petitioners-Respondents,

-against-

THE CITY OF NEW YORK, THE NEW YORK CITY DEPARTMENT OF EDUCATION, and THE CHANCELLOR OF THE NEW YORK CITY DEPARTMENT OF EDUCATION, DAVID C. BANKS, in his official capacity,

Respondents-Appellants.

For an Order, Pursuant to Section 6301 and Article 78 of the CPLR and Sections 2590-g and 2590-q of the New York Education Law, Annulling the Adoption of the New York City FY 2023 Budget and the New York City Department of Education FY 2023 Education Budget.

Case No. 2022-03313

New York County Index
No. 155933/2022

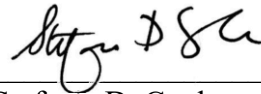
**NOTICE OF
MOTION FOR
LEAVE TO FILE
PROPOSED BRIEF
OF *AMICUS CURIAE***

PLEASE TAKE NOTICE that, upon the annexed affirmation of Stefanie D. Coyle, dated August 25, 2022, and the exhibits annexed thereto, a motion will be made, on consent, at a term of this Court to be held at 27 Madison Avenue, New York, New York 10010 on September 6, 2022, at 10:00 a.m., or as soon thereafter as counsel can be heard, for an order granting the New York Civil Liberties Union leave to file the proposed Brief of *Amicus Curiae* in Support of Petitioners-Respondents, attached hereto as Exhibit A. Pursuant to 22 NYCRR §§ 600.4 and

1250.4, this motion will be submitted on the papers and personal appearance in opposition to the motion is neither required nor permitted.

PLEASE TAKE FURTHER NOTICE that, pursuant to CPLR § 2214 [b], answering papers, if any, shall be served upon the undersigned counsel at least two (2) days prior to the return date of this motion.

Dated: New York, NY
August 25, 2022



Stefanie D. Coyle
Johanna Miller
Rae Shih
Beth Haroules
Molly K. Biklen

New York Civil Liberties Union Foundation
125 Broad Street, 19th Floor
New York, NY 10004
(212) 607-3300
scoyle@nyclu.org

Counsel for Proposed *Amicus Curiae*

To:

CLERK OF THE COURT
Appellate Division, First Department
27 Madison Avenue
New York, New York 10010

LAURA D. BARBIERI
ADVOCATES FOR JUSTICE
225 Broadway, Suite 1902
New York, New York 10007
212-285-1400 ext.112
lbarbieri@advocatesny.com

Counsel for Petitioners-Respondents

HON. SYLVIA O. HINDS-RADIX
Corporation Counsel
of the City of New York

by Richard Dearing

100 Church Street
New York, New York 10007
Tel: 212-356-2500 or -2503
Fax: 212-356-1148
rdearing@law.nyc.gov

Counsel for Respondents-Appellants

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION FIRST DEPARTMENT

In the Matter of

TAMARA TUCKER, et al.,

Petitioners-Respondents,

against

THE CITY OF NEW YORK, et al.,

Respondents-Appellants.

For an Order, Pursuant to Section 6301 and Article 78 of the CPLR and Sections 2590-g and 2590-q of the New York Education Law, Annuling the Adoption of the New York City FY 2023 Budget and the New York City Department of Education FY 2023 Education Budget.

Case No. 2022-03313

New York County Index
No. 155933/2022

**AFFIRMATION OF
STEFANIE D.
COYLE IN SUPPORT
OF MOTION FOR
LEAVE TO FILE
PROPOSED BRIEF
OF *AMICUS CURIAE***

STEFANIE D. COYLE, an attorney duly admitted to practice before this Court, affirms under penalty of perjury pursuant to CPLR § 2106, as follows:

1. I am a member of the bar of the State of New York and am Deputy Director of the Education Policy Center at the New York Civil Liberties Union (the “NYCLU”), the proposed *amicus curiae*. I am not a party to this action and am in good standing in the Courts of the State of New York.
2. Pursuant to this Court’s Rule of Practice § 1250.4 [f], the NYCLU requests permission to appear as *amicus curiae* in the above-captioned case.
3. Counsel for the Appellants and Respondents have consented to the filing of this motion.

4. The New York Civil Liberties Union is the New York State affiliate of the American Civil Liberties Union, and a non-profit, non-partisan organization with over 85,000 members and supporters. The NYCLU has consistently supported government transparency and the public’s right to petition the government for the redress of its concerns.¹ Through its Education Policy Center, the NYCLU advocates for equitable access to quality education for all young people in New York.
5. For more than a decade, the NYCLU has advocated for changes to the NYC “mayoral control” system of school governance, because the framework has often been used to cut the public out of major decisions about schools. Through public commentary and testimony, the NYCLU has consistently called for expanded public participation and accountability in the New York City school system.²
6. The NYCLU has also regularly participated as *amicus curiae* in cases regarding students’ rights under the Education Article of the New York Constitution to the

¹ See, e.g., *NYCLU v New York City Transit Authority*, 684 F3d 286, 297 (2d Cir 2012) [holding that adjudicative hearings held by the NYC Metropolitan Transit Authority must be open to the public].

² *Transparency, Accountability Suffer Under Current Mayoral Control Regime*, June 4, 2009, <https://www.nyclu.org/en/publications/transparency-accountability-suffer-under-current-mayoral-control-regime>; *The Price of Power: Civil Liberties and Civil Rights Under Mayoral Control of New York City Schools*, https://www.nyclu.org/sites/default/files/MC_NYCLU_final.pdf; Udi Ofer and Johanna Miller, New York City Council Education Committee Hearing on Introduction 354, June 13, 2011, <https://www.nyclu.org/en/publications/testimony-regarding-bullying-new-york-city-public-schools>; NYCLU Testimony, *New York City Council Testimony on Proposed Changes to the 2012-2013 Citywide Standards of Intervention and Discipline Measures*, June 19, 2012, <https://www.nyclu.org/sites/default/files/releases/NYCLU2012WrittenDiscCodeTestimonyFINAL.pdf>; Samantha Pownall, *A, B, C, D, STPP: How School Discipline Feeds the School-to-Prison Pipeline*, October, 2013, https://www.nyclu.org/sites/default/files/publications/nyclu_STPP_1021_FINAL.pdf; Johanna Miller, Senate Education Committee Hearing on Mayoral Control of NYC Public Schools, March 15, 2019, <https://www.nyclu.org/en/publications/testimony-hearing-mayoral-control-nyc-public-schools>; Johanna Miller and Toni Smith-Thompson, *How to Make NYC Schools More Democratic, Even Under Mayoral Control*, May 17, 2022, <https://www.nyclu.org/en/news/how-make-nyc-schools-more-democratic-even-under-mayoral-control>.

opportunity of a “sound basic education,” which are potentially implicated by the deep budget cuts in this case.

7. The NYCLU submitted *amicus curiae* briefs to the Court of Appeals in 1995 and 2003 when the *Campaign for Fiscal Equity* cases were previously before the Court of Appeals.³ The NYCLU also submitted *amicus curiae* briefs to the Appellate Division, Third Department in both 2017 and 2020 in *Maisto v. State*, a case alleging the violation of the opportunity for a “sound basic education” in eight small cities across New York State.⁴
8. The NYCLU respectfully requests to file the proposed Brief of *Amicus Curiae*, a true and correct copy of which is included with this submission as Exhibit A.
9. In accordance with 22 NYCRR § 1250.4, the NYCLU’s *amicus* brief presents to this Court important arguments not fully addressed by the parties’ briefs that were put directly at issue in this appeal by the parties and by the lower court’s decision.
10. *Amicus* writes in support of Petitioners-Respondents to provide context on the critical importance that the legislature has placed on government transparency and public participation in the school budgeting process⁵ and the evolution of the laws meant to enshrine that participation.
11. The proposed *amicus* brief provides additional insight to the Court regarding the procedures mandated by Education Law § 2590-g that are in place to include and empower parents, students, and the public to support informed and deliberative

³ See *Campaign for Fiscal Equity, Inc. v State of New York*, 86 NY2d 307 [1995] and *Campaign for Fiscal Equity, Inc. v State of New York*, 100 NY2d 893 [2003].

⁴ See *Maisto v State*, 154 AD3d 1248 [3rd Dept 2017] and *Maisto v State*, 196 AD3d 104 [3rd Dept 2021].

⁵ *Amicus* intends all references to the school budgeting process to refer to the NYC DOE school budgeting process mandated by Education Law §§ 2576 and 2590.

decision-making, and to prepare student stakeholders for broader democratic participation. These requirements have been deliberately implemented over time by the legislature to ensure public participation in decisions affecting education and cannot be bypassed as an administrative formality.

12. Respondents-Appellants have claimed that the Panel on Educational Policy’s role in the Department of Education budgetary process is merely “tangential.”⁶ *Amicus* writes to demonstrate that, contrary to its claims, the Respondents-Appellants’ actions at issue in this Article 78 have subverted the right of all stakeholders to actively participate in the crucial budgetary processes impacting New York City public education, including the public hearing and PEP vote process.
13. The proposed brief provides context on the great value New York State puts on government transparency and public participation, particularly in deliberations about public education. This recognition stems from the “importance of education in our democracy,” (*Campaign for Fiscal Equity v State of New York*, 100 NY2d 893, 901 [2003]), and its role in ensuring “meaningful civic participation in contemporary society” (100 NY2d at 905 [internal citations omitted]). Accordingly, New York’s Education Law and the Open Meetings Law provide for robust forms of public participation in educational budgeting processes through local school boards.
14. *Amicus* also sets forth the nature of the specific requirements set by the New York State Legislature with respect to public input concerning the DOE’s budgetary process and the other mandates in the Education Law, beyond those at issue in this

⁶ See NY St Cts Elec Filing [NYSCEF] Doc No. 10 at 29, Brief for Appellants, 1st Dept, Index No. 2022-03313.

case, to facilitate the “involvement and appropriate input of all members of the school community, including parents, teachers, and other school personnel” at PEP meetings.

15. *Amicus* demonstrates that the PEP was established by the New York State Legislature to provide “an opportunity for meaningful participation for both parents and the community” and Education Law § 2590-g has been amended repeatedly to reflect this purpose.
16. Finally, *amicus* demonstrates that with the benefit of full public input, the City Council could have made an informed decision on the City’s FY23 Department of Education budget, including important discussion about whether the DOE’s drastic cuts would have forced it into a potential violation of its Constitutional obligations to students.

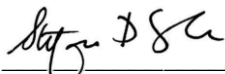
Exhibits

17. As required by this Court’s Rule of Practice § 1250.4, a true and correct copy of the Notice of Appeal with proof of filing is included with this submission as Exhibit B.
18. As required by this Court’s Rule of Practice § 1250.4, a true and correct copy of the Decision and Order appealed from with proof of filing is included with this submission as Exhibit C.
19. A true and correct copy of the Letter from City Council members to Mayor Adams and Chancellor Banks dated July 12, 2022, <https://council.nyc.gov/press/wp-content/uploads/sites/56/2022/07/Council-Leadership-Letter-to-Mayor-Chancellor-re-School-Budgets-1.pdf> is included with this submission as Exhibit D.

20. A true and correct copy of the Memorandum of the Assembly Rules Committee, Bill Jacket, L 2003, ch 123 and the New York State Assembly Memorandum in Support of A 9133, Legislation submitted in accordance with Assembly Rule III, § 1 (f) is included with this submission as Exhibit E.
21. A true and correct copy of the Memorandum of the Assembly Rules Committee, Bill Jacket, L 2009, ch 345 and the NY Assembly Memorandum in Support of A 8903, Legislation submitted in accordance with Assembly Rule III § 1 (f) is included with this submission as Exhibit F.

WHEREFORE, the proposed *amicus curiae* the NYCLU respectfully requests that it be permitted to file its proposed brief and further, based on the arguments contained herein and in the enclosed brief, that this Court vacate the automatic stay granted on August 9, 2022 and uphold the August 5, 2022 order issued below insofar as that order vacated the City's FY23 budget as to the Department of Education, reverting spending levels to the those approved in the City's FY22 budget.

Dated: New York, NY
August 25, 2022



Stefanie D. Coyle

Exhibit A

Proposed Brief of Amicus Curiae New York Civil Liberties Union
in Support of Petitioners-Respondents

New York Supreme Court
Appellate Division – First Department

In the Matter of

TAMARA TUCKER, and MELANIE KOTLER, individually, and on behalf of all parents and guardians of New York City public school students, and PAUL TRUST and SARAH BROOKS, individually, and on behalf of all similarly situated New York City public school teachers,

Petitioners-Respondents,

-against-

THE CITY OF NEW YORK, THE NEW YORK CITY DEPARTMENT OF EDUCATION, and
THE CHANCELLOR OF THE NEW YORK
CITY DEPARTMENT OF EDUCATION, DAVID C. BANKS, in his official capacity,

Respondents-Appellants.

For an Order, Pursuant to Section 6301 and Article 78 of the CPLR and Sections 2590-g and 2590-q of the New York Education Law, Annuling the Adoption of the New York City FY 2023 Budget and the New York City Department of Education FY 2023 Education Budget.

**BRIEF OF AMICUS CURIAE THE NEW YORK CIVIL LIBERTIES
UNION IN SUPPORT OF PETITIONERS-RESPONDENTS**

Stefanie D. Coyle
Johanna Miller
Rae Shih
Beth Haroules
Molly K. Biklen

NEW YORK CIVIL LIBERTIES UNION
FOUNDATION
125 BROAD STREET, 19TH FLOOR
NEW YORK, NY 10004
(212) 607-3300
scoyle@nyclu.org

Dated: August 25, 2022
New York, NY

Counsel for Amicus Curiae

TABLE OF CONTENTS

TABLE OF AUTHORITIES..... ii

PRELIMINARY STATEMENT1

RELEVANT FACTS & PROCEDURAL HISTORY.....3

INTEREST OF AMICUS CURIAE.....6

ARGUMENT7

 I. GOVERNMENT TRANSPARENCY AND PUBLIC PARTICIPATION ARE
 CRITICAL IN DELIBERATIONS ABOUT PUBLIC EDUCATION.....7

 A. THE PEP WAS ESTABLISHED BY THE NEW YORK STATE
 LEGISLATURE TO PROVIDE “AN OPPORTUNITY FOR
 MEANINGFUL PARTICIPATION FOR BOTH PARENTS AND THE
 COMMUNITY” AND EDUCATION LAW § 2590-G HAS BEEN
 AMENDED REPEATEDLY TO REFLECT THIS PURPOSE.11

 B. WITH THE BENEFIT OF PUBLIC INPUT, THE CITY COUNCIL
 COULD HAVE MADE AN INFORMED DECISION ON THE CITY’S
 FY23 DOE BUDGET.14

CONCLUSION19

TABLE OF AUTHORITIES

Cases	Page(s)
<i>Appeal of Handsman</i> , 58 Ed Dept Rep, Decision No. 17, 596 [March 4, 2019], http://www.counsel.nysed.gov/Decisions/volume58/d17596	9
<i>Appeal of Martin</i> , 32 Ed Dept Rep, Decision 12, 861 [December 28, 1992], http://www.counsel.nysed.gov/Decisions/volume32/d12861	9
<i>Appeal of Michalski</i> , 33 Ed Dept Rep, Decision No. 13, 130 [March 10, 1994] http://www.counsel.nysed.gov/Decisions/volume33/d13130	8
<i>Appeal of Vendel</i> , 50 Ed Dept Rep, Decision No. 16, 134 [August 20, 2010], http://www.counsel.nysed.gov/Decisions/volume50/d16134	9
<i>Appeal of Williams</i> , 53 Ed Dept Rep, Decision No. 16, 548 [September 5, 2013], http://www.counsel.nysed.gov/Decisions/volume53/d16548	9
<i>Appeal of Wilson</i> , 33 Ed Dept Rep, Decision No. 12, 982 [August 4, 1993], http://www.counsel.nysed.gov/Decisions/volume33/d12982	9
<i>Appeal of Wittneben</i> , 31 Ed Dept Rep, Decision 12, 671 [March 20, 1992], http://www.counsel.nysed.gov/Decisions/volume31/d12671	9
<i>Campaign for Fiscal Equity, Inc. v State of New York</i> , 100 NY2d 893 [2003]	7, 8, 17
<i>Campaign for Fiscal Equity, Inc. v State of New York</i> , 86 NY2d 307 [1995]	7, 17
<i>Maisto v State</i> , 154 AD3d 1248 [3d Dept 2017]	7, 17
<i>Maisto v State</i> , 196 AD3d 104 [3d Dept 2021]	7
<i>NYCLU v New York City Transit Authority</i> , 684 F3d 286 [2d Cir 2012]	6
<i>Thomas v New York City Dept of Educ</i> , 145 AD3d 30 [1st Dept 2016]	8
<i>Tucker et al. v City of New York et al.</i> , Sup Ct. New York County, August 5, 2022, Frank, L., Index No. 155933/2022	1, 4, 11, 16, 17
 Committee Opinions	
Comm on Open Govt OML-AO-3346 [2001] [Note: Open Meetings Law Advisory Opinion]	8
Comm on Open Govt OML-AO-3222 [2000] [Note: Open Meetings Law Advisory	

Opinion]8

Statutes and Legislative Materials

NY Const art XI, § 117

New York City Charter §§ 225-2583

NY Educ Law § 2590-a3

NY Educ Law § 2590-b3, 10

NY Educ Law § 2590-c12

NY Educ Law § 2590-h9

NY Educ Law § 2590-r10

NY Educ Law § 17088

NY Pub Off Law § 1038

L 2003, ch 123, as amended12

L 2009, ch 345, as amended12

L 2019, ch 59, as amended12

L 2022, ch 364, as amended12

Assembly Rule III, Sec § 111, 12

Mem of Assembly Rules Comm, Bill Jacket, L 2003, ch 123 and New York Assembly
Memorandum in Support of A 9133, Legislation submitted in accordance with
Assembly Rule III § 1 (f)11

Mem of Assembly Rules Comm, Bill Jacket, L 2009, ch 345 and New York Assembly
Memorandum in Support of A 8903, Legislation submitted in accordance with
Assembly Rule III § 1 (f)12

Other Authorities

Selim Algar, *NYC Education Panel Rejects Contract for Gifted and Talented Exam*, NY
Post [January 28, 2021], [https://nypost.com/2021/01/28/nyc-education-panel-rejects-
contract-for-gifted-and-talented-exam/](https://nypost.com/2021/01/28/nyc-education-panel-rejects-contract-for-gifted-and-talented-exam/)14

Cayla Bamberger, *Progressive NYC Council members admit they were ‘wrong’ to vote for city budget that slashed school funding*, NY Post [July 18, 2022], <https://nypost.com/2022/07/18/progressive-nyc-council-members-admit-they-were-wrong-to-vote-for-school-budget-cuts/>5, 18

Chancellor of Education Regulations A-655 [II] [A] [1], <https://www.schools.nyc.gov/docs/default-source/default-document-library/a-655-english>9

Letter from City Council members to Mayor Adams and Chancellor Banks dated July 12, 2022, <https://council.nyc.gov/press/wp-content/uploads/sites/56/2022/07/Council-Leadership-Letter-to-Mayor-Chancellor-re-School-Budgets-1.pdf>.....5

Natalie Gomez-Velez, Comment, *Public School Governance and Democracy: Does Public Participation Matter?*, 53 Villanova Law Rev 297, 348 [2008]7

Anemona Hartocollis, *CONSENSUS ON CITY SCHOOLS: HISTORY; Growing Outrage Leads Back for Centralized Leadership*, NY Times [June 7, 2002], <https://www.nytimes.com/2002/06/07/nyregion/consensus-city-schools-history-growing-outrage-leads-back-centralized-leadership.html>..... 11

Independent Budget Office of the City of New York, *Tables Denominated Department of Education Spending Since 1990, Full Agency Cost*, <https://ibo.nyc.ny.us/iboreports/2021-education-spending-tables-june-2022.pdf>4

Mayor’s Office of Management and Budget, <https://www1.nyc.gov/site/omb/index.page>..... 13

Johanna Miller and Toni Smith-Thompson, *How to Make NYC Schools More Democratic, Even Under Mayoral Control*, New York Civil Liberties Union [May 17, 2022], <https://www.nyclu.org/en/news/how-make-nyc-schools-more-democratic-even-under-mayoral-control>6

Johanna Miller, *Senate Education Committee Hearing on Mayoral Control of NYC Public Schools*, New York Civil Liberties Union [March 15, 2019], <https://www.nyclu.org/en/publications/testimony-hearing-mayoral-control-nyc-public-schools>6

PEP Bylaws, *Notice and Comment Period* at Section 10.1, NYC Department of Education, <https://www.schools.nyc.gov/about-us/leadership/panel-for-education-policy/pep-bylaws>.....3

NYCLU Testimony, *Proposed Changes to the 2012-2013 Citywide Standards of Intervention and Discipline Measures* [June 19, 2012],

<https://www.nyclu.org/sites/default/files/releases/NYCLU2012WrittenDiscCodeTestimonyFINAL.pdf>6

Udi Ofer and Johanna Miller, *Testimony Regarding Bullying in New York City Public Schools*, New York Civil Liberties Union [June 13, 2011], <https://www.nyclu.org/en/publications/testimony-regarding-bullying-new-york-city-public-schools>6

Panel for Educational Policy, *Emergency Declarations*, NYC Department of Education, <https://www.schools.nyc.gov/about-us/leadership/panel-for-education-policy/emergency-declarations>4

Panel for Educational Policy, *Meeting Recording*, NYC Department of Education [June 23, 2022], <https://learndoe.org/pep/archive-pep-jun23-2022/>15

Panel for Educational Policy Bylaws, *Notice and Comment Period* at Section 10.1, NYC Department of Education, <https://www.schools.nyc.gov/about-us/leadership/panel-for-education-policy/pep-bylaws>3

Panel for Educational Policy Meeting Archives, *NYC Department of Education*, <https://www.schools.nyc.gov/about-us/leadership/panel-for-education-policy/pep-meetings-archive>13

Samantha Pownall, *A, B, C, D, STPP: How School Discipline Feeds the School-to-Prison Pipeline*, New York Civil Liberties Union [October, 2013], https://www.nyclu.org/sites/default/files/publications/nyclu_STPP_1021_FINAL.pdf6

Testimony of New York City Comptroller Brad Lander to the Joint Hearing of the New York City Council Committees on Education and Oversight & Investigations on DOE School Budgets for FY 2023, New York City Comptroller [June 24, 2022], <https://comptroller.nyc.gov/newsroom/testimony-of-new-york-city-comptroller-brad-lander-to-the-joint-hearing-of-the-new-york-city-council-committees-on-education-and-oversight-investigations-on-doe-school-budgets-for-fy-2023/>5, 16

The Price of Power: Civil Liberties and Civil Rights Under Mayoral Control of New York City Schools, New York Civil Liberties Union [June 13, 2011], https://www.nyclu.org/sites/default/files/MC_NYCLU_final.pdf6

Transparency, Accountability Suffer Under Current Mayoral Control Regime, New York Civil Liberties Union [June 4, 2009], <https://www.nyclu.org/en/publications/transparency-accountability-suffer-under-current-mayoral-control-regime>6

United Federation of Teachers, *What is excessing? What is the difference between excessing and layoffs?*, <https://www.uft.org/faqs/what-excessing-what-difference-between-excessing-and-layoffs> 16

Welcome to the Community Education Council Website, Community District Education Council 26, <https://www.cdec26.org/> 12

Alex Zimmerman, *Restorative justice funding under threat, NYC schools advocates warn*, Chalkbeat [August 15, 2022], <https://ny.chalkbeat.org/2022/8/15/23307258/restorative-justice-funding-cuts-education-department> 16

PRELIMINARY STATEMENT

There is no dispute in this Article 78 proceeding that the Department of Education (“DOE”) failed to engage in the statutory public comment process and hold the vote by the Panel for Educational Policy (“PEP”) prior to the City Council’s vote on the overall City budget for the 2023 Fiscal Year. The failure to complete the full forty-five-day public comment period and hold the PEP vote in a timely manner denied parents, students, educators, and community members the opportunity to provide details about how the budget would impact them. As a result, City Council members voted for the budget without fully understanding its impact, which will range from the elimination of individual teaching positions to cutting entire programs in some schools, including those for students with disabilities and English Language Learners. The Supreme Court held that this failure to comply with the full PEP process was not justified.¹ This breach violates Education Law § 2590-g and § 2590-q and will have deep and lasting impacts on petitioners as well as all the parents, students, and educators in the New York City public schools.

Amicus writes in support of Petitioners-Respondents to provide context on the critical importance that the legislature has placed on government transparency and public participation in the school budgeting process.² Public comment is a vital part of the school

¹ NY St Cts Elec Filing [NYSCEF] Doc 49, decision and order on motion at 1, in *Tucker et al. v City of New York et al.*, Sup Ct. New York County, August 5, 2022, Frank, L., Index No. 155933/2022. *See also* Affirmation of Stefanie D. Coyle in Support of Motion For Leave to File Proposed Brief of *Amicus Curiae* dated August 25, 2022 (“Coyle Aff.”), exhibit C.

² All references to the school budgeting process refers to the NYC DOE school budgeting process mandated by Education Law §§ 2576 and 2590.

budgeting process because it gives lawmakers more information about how their actions impact the entire school community. Education Law § 2590-g and § 2590-q mandate legislative deliberation and public participation to arrive at better decisions for the community. The amendments to and expansion of Education Law § 2590 in 2009 make clear the legislature's intent in requiring opportunities for public participation in the governance of New York City schools. The 2009 amendments were not merely cosmetic but rather intended to be a critical step in ensuring the City Council benefits from public input when considering changes to the school system, including those to the budget. Here, the DOE's failure to obtain mandatory public input in the budget process directly violated not only the letter and spirit of the Education Law, it also deprived the City Council the benefit of receiving this vital factual information from the public prior to its vote.

The DOE's total disregard for public comment allowed it to make decisions impacting nearly a million public school students without input from any of those students or their families, or any teachers or community members who are directly impacted by proposed DOE funding levels. Therefore, we join in support of the Petitioners-Respondents to urge this Court to vacate the automatic stay granted on August 9, 2022 and uphold the August 5, 2022 order issued below insofar as that order vacated the City's budget for Fiscal Year 2023 Fiscal Year (the "FY23 Budget") as to the Department of Education and reverted spending levels to the those approved in the City's Budget for Fiscal Year 2022.

RELEVANT FACTS & PROCEDURAL HISTORY

The Panel for Education Policy serves as the school board for the New York City Department of Education (NY Educ Law § 2590-b).³ The New York Education Law and the PEP’s own bylaws require a forty-five-day “public review process” for the schools’ budget that includes “notice of the proposed item under PEP consideration at least 45 days in advance of the PEP vote on such item”⁴ (NY Educ Law § 2590-g [8] [a]). This “public review process” also provides for the public to be heard at a meeting of the PEP at which it will vote on the proposed budget. After this public input and vote, the New York City Council then votes on the complete City budget, which includes the DOE budget (New York City Charter §§ 225-258).

³ The PEP is referred to as the “city board” in the Education Law. NY Educ Law § 2590-a.

⁴ PEP Bylaws, *Notice and Comment Period* at Section 10.1, NYC Department of Education, <https://www.schools.nyc.gov/about-us/leadership/panel-for-education-policy/pep-bylaws>; *see also* NY Educ Law § 2590-g which provides in pertinent part as follows:

7. *All items requiring city board approval shall be by a public vote at a regular public meeting, ... and such items shall not become effective until after such vote occurs except as expressly authorized in subdivision nine of this section.*

8. (a) *Prior to the approval of any proposed item listed in subdivision one of this section, undertake a public review process to afford the public an opportunity to submit comments on the proposed item. Such public review process shall include notice of the item under city board consideration which shall be made available to the public, including via the city board's official internet website, and specifically circulated to all community superintendents, community district education councils, community boards, and school based management teams, at least forty-five days in advance of any city board vote on such item....*

9. *In the event the city board or the chancellor determines that immediate adoption of any item requiring city board approval is necessary for the preservation of student health, safety or general welfare and that compliance with the requirements of subdivision seven or eight of this section would be contrary to the public interest, then such proposed item may be adopted on an emergency basis. The city board or chancellor shall provide written justification for such determination and make such justification publicly available including via the city board's official internet web site.... [emphasis added].*

This year, the DOE did not undertake a public review process for the budget in advance of the Council’s vote. Instead, the DOE issued an emergency declaration on June 5, 2022 to bypass the public comment and PEP vote on the proposed mayoral budget for the New York City school system prior to the City Council’s vote.⁵ The emergency declaration does not provide any specific facts and states, quoting Education Law § 2590-g [9], that it was “necessary for the preservation of student health, safety or general welfare” of the students and school system as a whole. This is merely a recitation of Education Law § 2590-g [9] and offers no explanation of the nature of the emergency.

This is not the first time the DOE has issued an emergency declaration to bypass public comment—it issued one in at least 11 out of the last 13 years—and thus did not provide an opportunity for the public to weigh in prior to the City Council’s vote.⁶ Unlike the last 13 years, however, this year’s DOE budget proposes significant cuts to the school system.⁷ The approved FY23 Budget would cut more than \$200 million from the education budget, impacting almost 77% of DOE schools (Pet. ¶ 50-51).⁸ The New York City

⁵ See NY St Cts Elec Filing [NYSCEF] Doc No. 41, exhibit C to respondents’ answer, in *Tucker et al. v City of New York et al.*, Sup Ct. New York County, August 5, 2022, Frank, L., Index No. 155933/2022.

⁶ See NY St Cts Elec Filing [NYSCEF] Doc No. 10 at 11, brief for appellants, 1st Dept, Index No. 2022-03313. See also Panel for Educational Policy Emergency Declarations, <https://www.schools.nyc.gov/about-us/leadership/panel-for-education-policy/emergency-declarations>. Education Law § 2590-g [9] mandates that if there is an emergency declaration “the city board or chancellor shall provide written justification for such determination and make such justification publicly available including via the city board's official internet web site.”

⁷ See, e.g. Independent Budget Office of the City of New York, *Tables Denominated Department of Education Spending Since 1990, Full Agency Cost*, <https://ibo.nyc.ny.us/iboreports/2021-education-spending-tables-june-2022.pdf>.

⁸ NY St Cts Elec Filing [NYSCEF] Doc No. 1, verified petition, Sup Ct., NY County, Index No.1555933/2022.

Comptroller calculated that the total cost of the cuts is even higher, averaging \$402,456 per school for a total of \$469 million.⁹

After the City Council voted to approve the FY23 Budget, which included these significant cuts to the DOE budget, the PEP then scheduled a hearing at which community members were able to provide public feedback on the budget cuts. At this hearing, parents, students, and educators testified about the devastating impact the cuts would have to crucial school programs. After this public comment, several City Council members, including Council Speaker Adrienne Adams, admitted that they voted for the budget without understanding its impact.¹⁰ On July 12, 2022, forty-one members of the City Council, including those who did and did not vote to approve the budget, sent a letter to the Mayor and the Chancellor urging them to “immediately restore school budgets to prevent the elimination of key programs and teachers at schools for the upcoming year.”¹¹ When no response was forthcoming from the Mayoral administration, Petitioners-Respondents commenced this Article 78 proceeding.

⁹ *Testimony of New York City Comptroller Brad Lander to the Joint Hearing of the New York City Council Committees on Education and Oversight & Investigations on DOE School Budgets for FY 2023*, New York City Comptroller [June 24, 2022], <https://comptroller.nyc.gov/newsroom/testimony-of-new-york-city-comptroller-brad-lander-to-the-joint-hearing-of-the-new-york-city-council-committees-on-education-and-oversight-investigations-on-doe-school-budgets-for-fy-2023/>.

¹⁰ Cayla Bamberger, *Progressive NYC Council members admit they were ‘wrong’ to vote for city budget that slashed school funding*, NY Post [July 18, 2022], <https://nypost.com/2022/07/18/progressive-nyc-council-members-admit-they-were-wrong-to-vote-for-school-budget-cuts/>.

¹¹ Letter from City Council members to Mayor Adams and Chancellor Banks dated July 12, 2022, <https://council.nyc.gov/press/wp-content/uploads/sites/56/2022/07/Council-Leadership-Letter-to-Mayor-Chancellor-re-School-Budgets-1.pdf>. Coyle Aff., exhibit D.

INTEREST OF AMICUS CURIAE

The New York Civil Liberties Union (“NYCLU”) is the New York State affiliate of the American Civil Liberties Union, and a non-profit, non-partisan organization with over 85,000 members and supporters. The NYCLU has consistently supported government transparency and the public’s right to petition the government for the redress of its concerns.¹² Through its Education Policy Center, the NYCLU advocates for equitable access to quality education for all young people in New York.

For more than a decade, the NYCLU has advocated for changes to the “mayoral control” system of school governance because the framework has often been used to cut the public out of major decisions about schools. Through public commentary and testimony, the NYCLU has consistently called for expanded public participation and accountability in the New York City school system.¹³

¹² See, e.g., *NYCLU v New York City Transit Authority*, 684 F3d 286, 297 (2d Cir 2012) [holding that adjudicative hearings held by the NYC Metropolitan Transit Authority must be open to the public].

¹³ *Transparency, Accountability Suffer Under Current Mayoral Control Regime* [June 4, 2009], <https://www.nyclu.org/en/publications/transparency-accountability-suffer-under-current-mayoral-control-regime>; *The Price of Power: Civil Liberties and Civil Rights Under Mayoral Control of New York City Schools*, New York Civil Liberties Union [June 13, 2011], https://www.nyclu.org/sites/default/files/MC_NYCLU_final.pdf; Udi Ofer and Johanna Miller, *Testimony Regarding Bullying in New York City Public Schools* [June 13, 2011], <https://www.nyclu.org/en/publications/testimony-regarding-bullying-new-york-city-public-schools>; NYCLU Testimony, *Proposed Changes to the 2012-2013 Citywide Standards of Intervention and Discipline Measures* [June 19, 2012], <https://www.nyclu.org/sites/default/files/releases/NYCLU2012WrittenDiscCodeTestimonyFINAL.pdf>; Samantha Pownall, *A, B, C, D, STPP: How School Discipline Feeds the School-to-Prison Pipeline*, New York Civil Liberties Union [October, 2013], https://www.nyclu.org/sites/default/files/publications/nyclu_STPP_1021_FINAL.pdf; Johanna Miller, *Senate Education Committee Hearing on Mayoral Control of NYC Public Schools*, New York Civil Liberties Union [March 15, 2019], <https://www.nyclu.org/en/publications/testimony-hearing-mayoral-control-nyc-public-schools>; Johanna Miller and Toni Smith-Thompson, *How to Make NYC Schools*

The NYCLU has also regularly participated as *amicus curiae* in cases regarding students’ rights under the Education Article of the New York Constitution to the opportunity of a “sound basic education,” which are potentially implicated by the deep budget cuts in this case. The NYCLU submitted *amicus curiae* briefs to the Court of Appeals in 1995 and 2003 when the *Campaign for Fiscal Equity* cases were previously before the Court of Appeals.¹⁴ The NYCLU also submitted *amicus curiae* briefs to the Appellate Division, Third Department in both 2017 and 2020 in *Maisto v. State*, a case alleging the violation of the opportunity for a “sound basic education” in eight small cities across New York State.¹⁵

ARGUMENT

I. Government Transparency and Public Participation Are Critical in Deliberations About Public Education.

New York State puts great value on government transparency and public participation, particularly in deliberations about public education (*see* Public Officers Law § 100; *Campaign for Fiscal Equity, Inc. v State of New York*, 86 NY2d 307 [1995]).¹⁶ This recognition stems from the “importance of education in our democracy,” (*Campaign for Fiscal Equity v State of New York*, 100 NY2d 893, 901 [2003]), and its role in ensuring

More Democratic, Even Under Mayoral Control, New York Civil Liberties Union [May 17, 2022], <https://www.nyclu.org/en/news/how-make-nyc-schools-more-democratic-even-under-mayoral-control>.

¹⁴ *See Campaign for Fiscal Equity, Inc. v State of New York*, 86 NY2d 307 (1995) and *Campaign for Fiscal Equity, Inc. v State of New York*, 100 NY2d 893 (2003).

¹⁵ *See Maisto v State*, 154 AD3d 1248 (3d Dept 2017) and *Maisto v State*, 196 AD3d 104 (3d Dept 2021).

¹⁶ *See also* Natalie Gomez-Velez, Comment, *Public School Governance and Democracy: Does Public Participation Matter?*, 53 Villanova Law Rev 297, 348 (2008) [“the public as a whole has an interest in determining the course of public education” (internal citations omitted)].

“meaningful civic participation in contemporary society” (100 NY2d at 905 [internal citations omitted]). Accordingly, New York’s Education Law and the Open Meetings Law provide for robust forms of public participation in educational budgeting processes through local school boards. All school board meetings, both inside and outside New York City, must be open to the public, (NY Educ Law § 1708), and must be conducted in accordance with the requirements of the Open Meetings Law, (NY Pub Off Law § 103 *et seq.*; *see also Thomas v New York City Dept of Educ*, 145 AD3d 30 [1st Dept 2016] [internal citations omitted] [holding that meetings of DOE school leadership teams were “public bodies” within the meaning of the law and therefore subject to the Open Meetings Law]). In particular, discussions of budgetary issues must be disclosed to the public.¹⁷ The New York State Commissioner of Education has repeatedly recognized the value of public participation in the decisions of school boards, emphasizing that “[a] board of education is also obligated... to provide channels of communication through which residents may express their opinions” (*Appeal of Michalski*, 33 Ed Dept Rep, Decision No. 13, 130 [March 10, 1994], <http://www.counsel.nysed.gov/Decisions/volume33/d13130>). The Commissioner has reminded school boards that “[t]he board, of course, represents the school district and, in my judgment, wherever possible should listen to a presentation on the part of the responsible citizens upon any matter under consideration” (*Appeal of*

¹⁷ The Committee on Open Government has recognized that discussions regarding budgeting are “clearly a matter of public business” and, further, that “boards of education are required to...disclose to the public detailed information concerning [] budgets.” (Comm on Open Govt OML-AO-3346 [2001]) [Note: Open Meetings Law Advisory Opinion]; (Comm on Open Govt OML-AO-3222 [2000]) [Note: Open Meetings Law Advisory Opinion].

Wittneben, 31 Ed Dept Rep, Decision 12, 671 [March 20, 1992], <http://www.counsel.nysed.gov/Decisions/volume31/d12671> [internal citations omitted]).¹⁸ And that “[t]he reason for public participation is to enable board members to understand the concerns of the residents they represent” (*Appeal of Martin*, 32 Ed Dept Rep, Decision 12,861 [December 28, 1992], <http://www.counsel.nysed.gov/Decisions/volume32/d12861>).¹⁹

The Education Law also places specific requirements on New York City with respect to public input. Section 2590-h requires that the Chancellor, the head of the DOE, “[p]romote[s] the involvement and appropriate input of all members of the school community . . . including parents, teachers, and other school personnel” At the individual school level, consensus-based decision-making must be the primary means of decision-making, including in consultation on the school budget.²⁰ “[T]he purpose of shared decisionmaking is to foster communication among all parties involved in the critical job of educating our children” (*Appeal of Wilson*, 33 Ed Dept Rep, Decision No. 12, 982 [August 4, 1993], <http://www.counsel.nysed.gov/Decisions/volume33/d12982>). In fact,

¹⁸ To effectuate these rights, of course, “[d]istrict residents and taxpayers have a right to challenge unlawful district policies that adversely affect them.” *Appeal of Handsman*, 58 Ed Dept Rep, Decision No. 17, 596 [March 4, 2019], <http://www.counsel.nysed.gov/Decisions/volume58/d17596>; *see also Appeal of Williams*, 53 Ed Dept Rep, Decision No. 16, 548 [September 5, 2013], <http://www.counsel.nysed.gov/Decisions/volume53/d16548> (“District residents have standing to challenge an allegedly illegal expenditure of district funds” [internal citations omitted]).

¹⁹ “Board members are representatives chosen by the people to govern the affairs of a school district and as such have an obligation to keep the residents informed and to provide channels of communication through which residents may express their opinion. Thus, boards of education should be encouraged to have residents participate in their meetings,” *Appeal of Martin* (internal citations omitted); *see also Appeal of Vendel*, 50 Ed Dept Rep, Decision No. 16, 134 [August 20, 2010], <http://www.counsel.nysed.gov/Decisions/volume50/d16134> (“...a board of education should, whenever possible and appropriate, consider public input on matters under consideration”).

²⁰ Chancellor of Education Regulations A-655 [II] [A] [1], <https://www.schools.nyc.gov/docs/default-source/default-document-library/a-655-english>.

principals are required to “solicit[] input . . . on budget priorities from all members of the school community” (NY Educ Law § 2590-r [b]).

In addition to the Education Law provisions at issue in this case, § 2590-b imposes mandates for ensuring public participation in all monthly meetings of NYC’s school board, the PEP. Specifically, PEP meetings are required to be held at least once a month; at least one regular public meeting must be held in each borough; and the PEP must “consider appropriate public accommodations when selecting a venue so as to maximize participation by parents and the community.” To ensure the public can discuss the issues to be considered at the monthly PEP meeting, Education Law § 2590-b (c) (i) further mandates that notice of the time, place, and agenda for all PEP meetings must be publicly provided at least ten business days in advance of such meeting. Education Law § 2590-b (d) requires that the PEP “shall ensure that at every regular public meeting there is a sufficient period of time to allow for public comment on any topic on the agenda prior to any city board vote.” Finally, Education Law § 2590-b (e) mandates the PEP to keep formal minutes of each meeting and make those minutes publicly available “in a timely manner.”

These statutory requirements underscore the value placed by the legislature on public participation in education decisions and budget deliberations.

a. The PEP was Established by the New York State Legislature to Provide “an Opportunity for Meaningful Participation for Both Parents and the Community” and Education Law § 2590-g Has Been Amended Repeatedly to Reflect this Purpose.

For more than a century, the New York City public school system has cycled through centralized and decentralized forms of leadership.²¹ When control was most recently centralized under the New York City Mayor in 2002, the newly-constituted Board of Education—the PEP—was created to provide “an opportunity for meaningful participation for both parents and the community.”²² At the time, the City noted that “the Mayor and Chancellor believe that parents should have the dominant voice in a new structure that is focused on the educational mission of the schools they represent, rather than mired in inappropriate operational details.”²³ The DOE also noted the new system “will provide a balanced approach that addresses the critical need for parent and community involvement and will serve to enhance accountability and efficiency.”²⁴

However, over the years, the DOE repeatedly attempted to bypass this public participation. Accordingly, the legislature amended the Education Law multiple times to expand public participation and emphasize its importance. In 2003, the legislature amended

²¹ Anemona Hartocollis, *CONSENSUS ON CITY SCHOOLS: HISTORY; Growing Outrage Leads Back for Centralized Leadership*, *NY Times* [June 7, 2002].

<https://www.nytimes.com/2002/06/07/nyregion/consensus-city-schools-history-growing-outrage-leads-back-centralized-leadership.html>.

²² Mem of Assembly Rules Comm, Bill Jacket, L 2003, ch 123 and New York Assembly Memorandum in Support of A 9133, Legislation submitted in accordance with Assembly Rule III, § 1 (f), Coyle Aff., exhibit E. *See also* NY St Cts Elec Filing [NYSCEF] Doc No. 44 at 7, petitioners’ memorandum of law in support of the verified petition and in opposition to respondent’s verified answer, Sup Ct, NY County, Index No.1555933/2022.

²³ Coyle Aff., exhibit E at Bates stamp 000010.

²⁴ *Id.* at Bates stamp 000011.

the law to create “district education councils,” which were additional structures for parents and community members to provide input in public school operations and policies.²⁵ In 2009, the legislature increased the number of PEP members to eight; in 2019 to 15, including a member elected by the district education councils; and in 2022 the number was increased to 23.²⁶

Significantly, in 2009, the legislature amended Education Law § 2590-g to create the process at issue here, requiring the PEP to hold an “extensive public review process . . . to provide information and require a Board of Education response to public comments prior to the adoption of major proposals including [the DOE annual] budget.”²⁷ The legislature explained that it acted to “increase parental participation and input, transparency, and accountability at the school level, community district level, and city district level” and to “increase[e] transparency of actions taken by the Board of Education in order to give parents and other stake-holders greater insight into the operation of the city school district[.]”²⁸

In her letter to then-Governor David Paterson urging passage of the amendments to

²⁵ L 2003, ch 123, as amended; NY Educ Law § 2590-c; *see also Welcome to the Community Education Council Website*, Community District Education Council 26, <https://www.cdec26.org/> (“The CEC serves as an advisory board providing input and comment to the Chancellor and the Panel on Educational Policy regarding the needs of the district and DOE policy, in addition to policy implementation....The Councils were designed to ensure that parents have a voice and are able to provide hands-on leadership and support for public schools. Parents control the majority of the seats on all of the councils; at least 9 out of 12 available seats are held by public school parents.”).

²⁶ L 2009, ch 345, as amended; L 2019, ch 59, as amended; L 2022, ch 364, as amended.

²⁷ Mem of Assembly Rules Comm, Bill Jacket, L 2009, ch 345 and NY Assembly Memorandum in Support of A 8903, Legislation submitted in accordance with Assembly Rule III § 1 (f), Coyle Aff., exhibit F.

²⁸ *Id.*

Education Law § 2590-g, Assemblymember Catherine Nolan, the Chair of the New York Assembly Education Committee, made clear that these provisions were enacted to “give []parents greater and more meaningful participation in their children’s education – at their children’s local schools, the community school districts and the board of education.” As Assemblymember Nolan explained, “Decisions about education in New York City must also be public. *Public process is the very basis of community participation in governance.*”²⁹

What the PEP lacks in independent authority, it has been able to make up for as the City’s primary forum for public comment on education matters.³⁰ Although the PEP does not have binding authority to vote down the DOE budget, public deliberations at PEP meetings and the public PEP vote on the proposed DOE budget provides the City Council a better understanding of its impact on New York City students and school operations.³¹ It is this function of the PEP, as a forum for public discussion, that the legislature has taken pains to enshrine in state law. Parents and students regularly participate enthusiastically in public comment on various issues, pushing PEP meetings to midnight or later.³² In 2021,

²⁹ See Coyle Aff., exhibit F at Bates stamps 000005-000006 (emphasis added).

³⁰ NY Educ Law § 2590-g [“The city board shall advise the chancellor on matters of policy affecting the welfare of the city school district and its pupils. The board shall exercise no executive power and perform no executive or administrative functions.”]. Accordingly, the PEP’s belated vote on the DOE budget does rectify its failure to comport with the public comment mandates in the Education Law.

³¹ The global New York City budget of \$100 billion covers the operations of some 90 agencies, districts, and boards and over 300,000 government employees. The DOE budget is the largest percentage component of the City’s overall budget, representing up to a third or more of total budgeted spending. See *Mayor’s Office of Management and Budget*, <https://www1.nyc.gov/site/omb/index.page>.

³² See PEP Meeting Archives (showing most meetings last more than 5 hours due to extended public comment periods), <https://www.schools.nyc.gov/about-us/leadership/panel-for-education-policy/pep-meetings-archive>.

impassioned public comment, including by students with disabilities, led the PEP to cancel a contract for “gifted and talented” testing to the surprise of the DOE and politicians.³³ This example demonstrates the power the public can exert when given the opportunity to weigh in on matters important to New York City’s schools.

The PEP is not, contrary to Respondents-Appellants’ characterization, a “tangential” entity.³⁴ The New York State Legislature has designed the PEP, and the public comment it must obtain, to serve a highly “meaningful connection to the City Council’s vote on the final city budget.”³⁵ The PEP plays the critical role of providing a public forum for community members to air their concerns and serves as an important source of information regarding the public’s views on education decisions, particularly for the City Council.

b. With the Benefit of Public Input, the City Council Could Have Made an Informed Decision on the City’s FY23 DOE Budget.

Had the DOE followed the proper procedure and allowed for a fulsome public comment period and PEP vote prior to the City Council vote on the overall budget, the councilmembers would have had a more complete picture of the devastation of the budget cuts to education. In particular, the City Council would have received crucial information regarding the DOE’s ability to comply with its obligations to provide a “sound basic

³³ Selim Algar, *NYC Education Panel Rejects Contract for Gifted and Talented Exam*, NY Post [January 28, 2021], <https://nypost.com/2021/01/28/nyc-education-panel-rejects-contract-for-gifted-and-talented-exam/>.

³⁴ See NY St Cts Elec Filing [NYSCEF] Doc No. 10 at 29, brief for appellants, 1st Dept, Index No. 2022-03313. Judge Frank refused to allow the City’s efforts to render the PEP a “nullity.” See NY St Cts Elec Filing [NYSCEF] Doc No. 3 at 94, transcript of Supreme Court hearing, respondents-appellants’ application for interim relief supporting documents including exhibit(s), 1st Dept, Index No. 2022-03313.

³⁵ *Id.* at 3.

education” to all NYC students, as required by New York’s Constitution.

The City Council would have heard concerns such as those from this parent of a student with a disability who testified at the PEP meeting held after the fact:

At my son’s school he flourished under the care of his teacher and his special education teacher. There was also a program that had special education recovery where he was able to stay after school. It didn’t last the whole school year and now with these budget cuts, we don’t know if it’s coming back. What are we doing for these kids, what are we doing for all of the children in our school systems? . . . People are leaving the school system because they’re afraid their children aren’t going to get the services that they need.³⁶

The Council would have also heard from students like this who shared about their classmates’ experiences with mental health and the lack of basic school services noting:

Just this morning I had the opportunity to talk to a friend of mine who has an IEP, or individualized education plan. She was struggling getting through this past year and this was only made worse by the fact that with the school counselor’s office overburdened with cases, there was not enough time to meet with all students individually and they were instead put into larger groups, regardless of differing needs – meaning no one got the support they needed. I wish I could say that this was the only time I’ve heard stories like this...I’ve seen similar displays of stark systemic inequality before. Broken heating systems during the winter, vacancies in critical teaching positions and a lack of school support staff, leading to delays in basic necessities like delivery of school lunch.³⁷

³⁶ *Panel for Educational Policy Meeting Recording* at 1:34:12, NYC Department of Education [June 23, 2022], <https://learndoe.org/pep/archive-pep-jun23-2022/>.

³⁷ *Panel for Educational Policy Meeting Recording* at 1:14:35, NYC Department of Education [June 23, 2022], <https://learndoe.org/pep/archive-pep-jun23-2022/>.

The City Council also would have learned that an analysis by the Petitioners-Respondents showed that schools serving larger proportions of students with disabilities and English Language Learners will face steeper cuts than those without.³⁸ And that there would be significant cuts to additional supports required by certain populations of children, including the elimination of restorative justice programs.³⁹

Additionally, City Council members would have learned that, due to the cuts, some schools are “excessing” teachers,⁴⁰ which will eliminate programs such as science, art, and music, and may also increase class sizes as sections of grade levels are cut.⁴¹ And further, that the DOE’s significant reductions to the FY23 school budgets will hurt those with the greatest needs – Black and brown students, those from low-income communities and families, students with disabilities, and English Language Learners.⁴² Public input into funding allocations for education is particularly important in schools serving these student

³⁸ See NY St Cts Elec Filing [NYSCEF] Doc No. 1, verified petition, Sup Ct. New York County, Index No. 155933/2022 (¶¶ 52-54).

³⁹ See Alex Zimmerman, *Restorative justice funding under threat, NYC schools advocates warn*, Chalkbeat [August 15, 2022], <https://ny.chalkbeat.org/2022/8/15/23307258/restorative-justice-funding-cuts-education-department>.

⁴⁰ Excessing is the process of reducing staff in a particular school when there is a reduction in the number of available positions in a title or license area in that school. There are times when a school reduces the size of its faculty, such as when it experiences an unexpected drop in student enrollment, loses a budget line, or pursuant to state or federal law, is being closed, or phased out. See United Federation of Teachers, *What is excessing? What is the difference between excessing and layoffs?*, <https://www.uft.org/faqs/what-excessing-what-difference-between-excessing-and-layoffs>.

⁴¹ *Testimony of New York City Comptroller Brad Lander to the Joint Hearing of the New York City Council Committees on Education and Oversight & Investigations on DOE School Budgets for FY 2023*, New York City Comptroller [June 24, 2022], <https://comptroller.nyc.gov/newsroom/testimony-of-new-york-city-comptroller-brad-lander-to-the-joint-hearing-of-the-new-york-city-council-committees-on-education-and-oversight-investigations-on-doe-school-budgets-for-fy-2023/>.

⁴² NY St Cts Elec Filing [NYSCEF] Doc No. 1, verified petition, Sup Ct. New York County, Index No. 155933/2022 (¶¶ 52-54).

populations, because schools are often the primary resource families can turn to for support. Cuts to schools serving these populations of students will be felt acutely.

Petitioners-Respondents have also alleged that as a result of the flawed FY23 school budget process, New York City public school students have been denied their respective individual rights to a “sound basic education” under Article XI, § 1 of the New York Constitution (NY Const art XI, § 1; *see also Campaign for Fiscal Equity, Inc. v New York*, 86 NY2d 307 [1995]).⁴³ The Court of Appeals has “equated a sound basic education with ‘the basic literacy, calculating, and verbal skills necessary to enable children to eventually function productively as civic participants capable of voting and serving on a jury.’”⁴⁴ The reduction of teaching positions and programming for students are exactly the types of conditions that are considered when evaluating a claim for a deprivation of a student’s right to a “sound basic education.”⁴⁵ The City Council absolutely should have been able to consider whether the DOE’s drastic cuts might force the DOE into a potential violation of its Constitutional obligations to students. This is the value and purpose of expanded public

⁴³ NY St Cts Elec Filing [NYSCEF] Doc No. 1, verified petition, Sup Ct. New York County, Index No. 155933/2022 (¶¶ 91-105).

⁴⁴ *Campaign for Fiscal Equity, Inc. v State of New York*, 100 NY2d 893, 905 [2003].

⁴⁵ The “inputs” that a court must consider when evaluating whether a school district is providing a constitutionally-mandated “sound basic education” are “teacher quality—including certification rates, tests results, experience levels and the ratings teachers receive from their principals”... “[s]chool [f]acilities and [c]lassrooms” that “provide enough light, space, heat and air to permit children to learn,” and “[i]nstrumentalities of [l]earning ...including classroom supplies, textbooks, libraries and computers.” (100 NY2d at 909, 911, 913.) Other courts to consider this question have also mandated consideration of “whether additional supplemental services—for example, academic intervention services, language services, extended learning opportunities or additional social workers— must be provided to enable students in each of the districts to attain a sound basic education.” (*Maisto v State*, 154 AD3d 1248, 1255 [3d Dept 2017].)

participation and accountability in the New York City school system – so that the City Councilmembers can understand the perspectives of those directly impacted and then make more informed policy decisions that guarantee the rights of their constituents. Due to the DOE’s failure to comply with state law, the City Council was deprived of this exact information and the students of New York City will suffer the consequences.

It is clear that members of the City Council believe they did not have critical information regarding the impact of the budget cuts due to the DOE’s circumvention of the Education Law requirements for public comment. In response to the community input and outrage on the depth and severity of the cuts after the Council’s vote on the budget, Councilmember Carmen de la Rosa said she apologized “to my parents who are here, who I defended myself to. Our actions have no defense — because we were wrong.”⁴⁶ As Councilmember Shahana Hanif pointed out, the City Council was denied relevant information as it considered the budget stating “[w]e have a budget process that was rushed to stymie organizing efforts, and a series of backroom deals that attempted to mask critical information[] about the devastating cuts to public education.”⁴⁷

The procedures mandated by Education Law § 2590-g are in place to include and empower parents, students, and the public to support informed, deliberative decision-making and to prepare student stakeholders for broader democratic participation. These requirements

⁴⁶ Cayla Bamburger, *Progressive NYC Council members admit they were ‘wrong’ to vote for city budget that slashed school funding*, NY Post [July 18, 2022], <https://nypost.com/2022/07/18/progressive-nyc-council-members-admit-they-were-wrong-to-vote-for-school-budget-cuts/>.

⁴⁷ *Id.*


have been deliberately implemented over time by the legislature to ensure public participation in decisions affecting education and cannot be bypassed as an administrative formality. The Respondents-Appellants' actions at issue in this Article 78 have subverted the right of all stakeholders to actively participate in the crucial budgetary processes impacting New York City public education, including the public hearing and PEP vote process.

CONCLUSION

For the foregoing reasons, *amicus curiae* join in support of Petitioners-Respondents to urge this Court to vacate the automatic stay granted on August 9, 2022 and uphold the August 5, 2022 order issued below insofar as that order vacated the City's FY23 Budget as to the Department of Education, reverting spending levels to the those approved in the City's Budget for Fiscal Year 2022.

Dated: August 25, 2022
New York, NY

Respectfully submitted,



Stefanie D. Coyle
Johanna Miller
Rae Shih
Beth Haroules
Molly K. Biklen

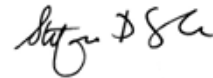
New York Civil Liberties Union
Foundation
125 Broad Street, 19th Floor
New York, NY 10004
(212) 607-3300
scoble@nyclu.org

Counsel for *Amicus Curiae*

PRINTING SPECIFICATIONS STATEMENT

I certify in compliance with Rule 1250.8(j) of the Practice Rules of the Appellate Division that this brief was prepared on a computer using Microsoft Word, the typeface is Times New Roman, the font-size is 14-point type, and the text is double-spaced. The brief contains 5798 words, excluding the sections listed in Rule 1250.8(f)(2).

Dated: August 25, 2022
New York, NY



Stefanie D. Coyle

Exhibit B

NY St Cts Elec Filing [NYSCEF] Sup Ct. New York County Index No. 155933-
2022, Doc 50; 1st Dept Index No. 2022-03313, Doc 1

**Supreme Court of the State of New York
County of New York**

----- x

In the Matter of

TAMARA TUCKER and MELANIE KOTLER, individual-
ly, and on behalf of all parents and guardians of
New York City public school students and PAUL
TRUST and SARAH BROOKS, individually, and on be-
half to all similarly situated New York City public
school teachers,

Petitioners,

- against -

THE CITY OF NEW YORK, THE NEW YORK CITY DE-
PARTMENT OF EDUCATION, and THE CHANCELLOR OF
THE NEW YORK CITY DEPARTMENT OF EDUCATION,
DAVID C. BANKS, in his official capacity,

Respondents.

----- x

PLEASE TAKE NOTICE that respondents appeal to the Appellate Division, First
Department, from the decision and order of Supreme Court, New York County
(Frank, J.) dated and entered August 5, 2022 (NYSCEF No. 49).

Dated: New York, New York
August 5, 2022

HON. SYLVIA O. HINDS-RADIX
*Corporation Counsel
of the City of New York*

By: 

DEVIN SLACK
Assistant Corporation Counsel
100 Church Street
New York, New York 10007
212-356-0817
dslack@law.nyc.gov

To: LAURA D. BARBIERI
ADVOCATES FOR JUSTICE
225 Broadway, Suite 1902
New York, New York 10007
212-285-1400 ext.112
lbarbieri@advocatesny.com
Counsel for Petitioners

Supreme Court of the State of New York

Appellate Division: First Judicial Department

Informational Statement (Pursuant to 22 NYCRR 1250.3 [a]) - Civil

<p>Case Title: Set forth the title of the case as it appears on the summons, notice of petition or order to show cause by which the matter was or is to be commenced, or as amended.</p>	<p style="text-align: center;">For Court of Original Instance</p>
<p>In the Matter of TAMARA TUCKER and MELANIE KOTLER, individually, and on behalf of all parents and guardians of New York City public school students and PAUL TRUST and SARAH BROOKS, individually, and on behalf to all similarly situated New York City public school teachers,</p> <p style="text-align: center;">Petitioners,</p> <p style="text-align: center;">- against -</p> <p>THE CITY OF NEW YORK, THE NEW YORK CITY DEPARTMENT OF EDUCATION, and the CHANCELLOR OF THE NEW YORK CITY DEPARTMENT OF EDUCATION, David C. Banks, in his official capacity,</p> <p style="text-align: center;">Respondents.</p>	<p style="text-align: center;">Date Notice of Appeal Filed</p>
<p style="text-align: center;">For Appellate Division</p>	

Case Type	Filing Type
<input checked="" type="checkbox"/> Civil Action <input type="checkbox"/> CPLR article 75 Arbitration	<input checked="" type="checkbox"/> Appeal <input type="checkbox"/> Original Proceedings <input type="checkbox"/> CPLR Article 78 <input type="checkbox"/> Eminent Domain <input type="checkbox"/> Labor Law 220 or 220-b <input type="checkbox"/> Public Officers Law § 36 <input type="checkbox"/> Real Property Tax Law § 1278
<input checked="" type="checkbox"/> CPLR article 78 Proceeding <input type="checkbox"/> Special Proceeding Other <input type="checkbox"/> Habeas Corpus Proceeding	<input type="checkbox"/> Transferred Proceeding <input type="checkbox"/> CPLR Article 78 <input type="checkbox"/> Executive Law § 298 <input type="checkbox"/> CPLR 5704 Review

Nature of Suit: Check up to three of the following categories which best reflect the nature of the case.

<input checked="" type="checkbox"/> Administrative Review	<input type="checkbox"/> Business Relationships	<input type="checkbox"/> Commercial	<input type="checkbox"/> Contracts
<input checked="" type="checkbox"/> Declaratory Judgment	<input type="checkbox"/> Domestic Relations	<input type="checkbox"/> Election Law	<input type="checkbox"/> Estate Matters
<input type="checkbox"/> Family Court	<input type="checkbox"/> Mortgage Foreclosure	<input type="checkbox"/> Miscellaneous	<input type="checkbox"/> Prisoner Discipline & Parole
<input type="checkbox"/> Real Property (other than foreclosure)	<input type="checkbox"/> Statutory	<input type="checkbox"/> Taxation	<input type="checkbox"/> Torts

Appeal	
Paper Appealed From (Check one only):	If an appeal has been taken from more than one order or judgment by the filing of this notice of appeal, please indicate the below information for each such order or judgment appealed from on a separate sheet of paper.
<input type="checkbox"/> Amended Decree <input type="checkbox"/> Amended Judgement <input type="checkbox"/> Amended Order <input type="checkbox"/> Decision <input type="checkbox"/> Decree	<input type="checkbox"/> Determination <input type="checkbox"/> Finding <input type="checkbox"/> Interlocutory Decree <input type="checkbox"/> Interlocutory Judgment <input type="checkbox"/> Judgment
<input checked="" type="checkbox"/> Order <input type="checkbox"/> Order & Judgment <input type="checkbox"/> Partial Decree <input type="checkbox"/> Resettled Decree <input type="checkbox"/> Resettled Judgment	<input type="checkbox"/> Resettled Order <input type="checkbox"/> Ruling <input type="checkbox"/> Other (specify):
Court: Supreme Court	County: New York
Dated: 08/05/2022	Entered: 08/05/2022
Judge (name in full): Hon. Lyle E. Frank	Index No.: 155933/2022
Stage: <input checked="" type="checkbox"/> Interlocutory <input type="checkbox"/> Final <input type="checkbox"/> Post-Final	Trial: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes: <input type="checkbox"/> Jury <input type="checkbox"/> Non-Jury
Prior Unperfected Appeal and Related Case Information	
Are any appeals arising in the same action or proceeding currently pending in the court? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
If Yes, please set forth the Appellate Division Case Number assigned to each such appeal. 2022-03187, 2022-03205	
Where appropriate, indicate whether there is any related action or proceeding now in any court of this or any other jurisdiction, and if so, the status of the case:	
Original Proceeding	
Commenced by: <input type="checkbox"/> Order to Show Cause <input type="checkbox"/> Notice of Petition <input type="checkbox"/> Writ of Habeas Corpus	Date Filed:
Statute authorizing commencement of proceeding in the Appellate Division:	
Proceeding Transferred Pursuant to CPLR 7804(g)	
Court: Choose Court	County: Choose County
Judge (name in full):	Order of Transfer Date:
CPLR 5704 Review of Ex Parte Order:	
Court: Choose Court	County: Choose County
Judge (name in full):	Dated:
Description of Appeal, Proceeding or Application and Statement of Issues	
<p>Description: If an appeal, briefly describe the paper appealed from. If the appeal is from an order, specify the relief requested and whether the motion was granted or denied. If an original proceeding commenced in this court or transferred pursuant to CPLR 7804(g), briefly describe the object of proceeding. If an application under CPLR 5704, briefly describe the nature of the ex parte order to be reviewed.</p> <p>In this hybrid proceeding seeking relief under article 78 of the CPLR and declaratory relief, by order dated and entered August 5, 2022, Supreme Court, New York County (Frank, J.), granted a preliminary injunction that, among other things, vacated the New York City FY-23 budget as it relates to the expenditures by the Department of Education and required all such spending levels to revert back to the levels in the FY-22 budget.</p>	

Informational Statement - Civil

Issues: Specify the issues proposed to be raised on the appeal, proceeding, or application for CPLR 5704 review, the grounds for reversal, or modification to be advanced and the specific relief sought on appeal.

Did Supreme Court err in granting a preliminary injunction?

Party Information

Instructions: Fill in the name of each party to the action or proceeding, one name per line. If this form is to be filed for an appeal, indicate the status of the party in the court of original instance and his, her, or its status in this court, if any. If this form is to be filed for a proceeding commenced in this court, fill in only the party's name and his, her, or its status in this court.

No.	Party Name	Original Status	Appellate Division Status
1	Tamara Tucker	Petitioner	Respondent
2	Melanie Kotter	Petitioner	Respondent
3	Paul Trust	Petitioner	Respondent
4	Sarah Brooks	Petitioner	Respondent
5	City of New York	Respondent	Appellant
6	New York City Department of Education	Respondent	Appellant
7	Chancellor of the New York City Department of Education, David C. Banks	Respondent	Appellant
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			

Attorney Information

Instructions: Fill in the names of the attorneys or firms for the respective parties. If this form is to be filed with the notice of petition or order to show cause by which a special proceeding is to be commenced in the Appellate Division, only the name of the attorney for the petitioner need be provided. In the event that a litigant represents herself or himself, the box marked "Pro Se" must be checked and the appropriate information for that litigant must be supplied in the spaces provided.

Attorney/Firm Name: Laura D. Barbieri / Advocates for Justice

Address: 225 Broadway, Suite 1902

City: New York, New York

State: NY

Zip: 10007

Telephone No: 212-285-1400 ext.112

E-mail Address: lbarbieri@advocatesny.com

Attorney Type: Retained Assigned Government Pro Se Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above): 1-4

Attorney/Firm Name: Tahirih Sadrieh & Deborah Brenner / New York City Law Department

Address: 100 Church Street

City: New York

State: NY

Zip: 10007

Telephone No: 212-356-0847 or -2500

E-mail Address: tsadrieh@law.nyc.gov, dbrenner@law.nyc.gov, and nycappeals@law.nyc.gov

Attorney Type: Retained Assigned Government Pro Se Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above): 5-7

Attorney/Firm Name:

Address:

City:

State:

Zip:

Telephone No:

E-mail Address:

Attorney Type: Retained Assigned Government Pro Se Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

Attorney/Firm Name:

Address:

City:

State:

Zip:

Telephone No:

E-mail Address:

Attorney Type: Retained Assigned Government Pro Se Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

Attorney/Firm Name:

Address:

City:

State:

Zip:

Telephone No:

E-mail Address:

Attorney Type: Retained Assigned Government Pro Se Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

Attorney/Firm Name:

Address:

City:

State:

Zip:

Telephone No:

E-mail Address:

Attorney Type: Retained Assigned Government Pro Se Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. LYLE E. FRANK PART **11M**

Justice

-----X

TAMARA TUCKER, MELANIE KOTLER, PAUL TRUST,
SARAH BROOKS

Petitioner,

INDEX NO. 155933/2022

MOTION DATE 07/27/2022

MOTION SEQ. NO. 001

- v -

THE CITY OF NEW YORK, THE NEW YORK CITY
DEPARTMENT OF EDUCATION, THE CHANCELLOR OF
THE NEW YORK CITY DEPARTMENT OF EDUCATION,
DAVID C. BANKS, IN HIS OFFICIAL CAPACITY,

Respondent.

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 44, 45, 46, 47, 48

were read on this motion to/for INJUNCTION/RESTRAINING ORDER.

Upon the foregoing documents and following a transcribed oral argument of August 4, 2022, the order to show cause is granted and a preliminary injunction is granted for the reasons indicated on the record and in the instant Decision and Order.

Specifically, the approval of the Fiscal Year 2023 New York City Budget (FY'23) as it relates to funds set out for the New York City Department of Education ("DOE") was in contravention of New York State Law. What was most in question was whether the Emergency Declaration put forth by the Schools Chancellor on May 31 was a valid exercise of the Chancellor's powers. The Court finds that it was not, for the reasons indicated on the record. As such, the vote of the New York City Council on the FY'23 budget should have occurred after the Panel for Education Policy held its own vote on the budget, which it did not. Therefore, the Court finds that the petitioners have succeeded on the merits.

As both sides have argued, limbo as to the budget will cause irreparable harm to New York City schools, and therefore that prong of the petition is met. Lastly, the balance of the equities clearly favors the petitioners due to the found violation of state law.

This Decision and Order does not, and this Court cannot opine as to what level of funds should have gone into the FY'23 budget as it relates to the DOE budget. This Decision and Order is limited to the DOE budget and should not be seen in any way as making any changes to the budget as to any other agency's budget. That being written, this decision does not preclude any amendments otherwise to the FY'23 to be consistent with this Decision and Order and other applicable law.

Based on the foregoing, it is hereby

ORDERED that except as indicated below, the New York City FY '23 budget as it relates to expenditures by the Department of Education only is vacated, and all such spending levels shall revert back to the levels in the Fiscal Year 2022 New York City budget; and it is further

ORDERED that the New York City Council and the Mayor of the City of New York shall be authorized to amend the Fiscal Year 2023 New York City budget consistent with this Decision and Order and all other applicable law, at which point the Fiscal Year 2022 spending levels will no longer be required to be complied with; and it is further

ORDERED that nothing in this Order shall prevent: a) the allocation of additional funds to DOE from sources other than from New York City expenditures, such as the Federal Government; b) the implementation of the dyslexia program already being created by the DOE; c) net-zero transactions involving transfer of staff within the system; and d) budget changes associated with grants where the grantor is not the City of New York.

FILED: NEW YORK COUNTY CLERK 08/05/2022 11:13 AM

20220805092622LFRANKBD5C7F44B2E450D982B8855C797C3FB



8/5/2022

DATE

LYLE E. FRANK, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE:



NYSCEF Confirmation Notice

New York County Supreme Court



The NYSCEF website has received an electronic filing on 08/05/2022 11:53 AM. Please keep this notice as a confirmation of this filing.

155933/2022

Tamara Tucker et al v. The City of New York et al

Assigned Judge: Lyle E. Frank

Documents Received on 08/05/2022 11:53 AM

Doc #	Document Type
50	NOTICE OF APPEAL
51	NO FEE AUTHORIZATION (LETTER/ORDER/AFFIRMATION)

Filing User

Devin Andrew Slack | dslack@law.nyc.gov
100 Church St, New York, NY 10007

E-mail Notifications

An email regarding this filing has been sent to the following on 08/05/2022 11:53 AM:

LAURA D. BARBIERI - lbarbieri@advocatesny.com
JEFFREY S. DANTOWITZ - jdantowi@law.nyc.gov
HANNAH J. SAROKIN - hsarokin@law.nyc.gov
ARTHUR Z. SCHWARTZ - aschwartz@advocatesny.com
DEVIN A. SLACK - dslack@law.nyc.gov

Hon. Milton A. Tingling, New York County Clerk and Clerk of the Supreme Court

Phone: 646-386-5956 Website: http://www.nycourts.gov/courts/1jd/suptctmanh/county_clerk_operations.shtml

NYSCEF Resource Center, nyscef@nycourts.gov

Phone: (646) 386-3033 | Fax: (212) 401-9146 | Website: www.nycourts.gov/efile

Exhibit C

NY St Cts Elec Filing [NYSCEF] Doc No. 49, decision and order on motion at 1, in Tucker et al. v City of New York et al., Sup Ct. New York County, August 5, 2022, Frank, L., Index No. 155933/2022

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. LYLE E. FRANK PART 11M

Justice

-----X

TAMARA TUCKER, MELANIE KOTLER, PAUL TRUST, SARAH BROOKS

Petitioner,

INDEX NO. 155933/2022

MOTION DATE 07/27/2022

MOTION SEQ. NO. 001

- v -

THE CITY OF NEW YORK, THE NEW YORK CITY DEPARTMENT OF EDUCATION, THE CHANCELLOR OF THE NEW YORK CITY DEPARTMENT OF EDUCATION, DAVID C. BANKS, IN HIS OFFICIAL CAPACITY,

Respondent.

DECISION + ORDER ON MOTION

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 44, 45, 46, 47, 48

were read on this motion to/for INJUNCTION/RESTRAINING ORDER.

Upon the foregoing documents and following a transcribed oral argument of August 4, 2022, the order to show cause is granted and a preliminary injunction is granted for the reasons indicated on the record and in the instant Decision and Order.

Specifically, the approval of the Fiscal Year 2023 New York City Budget (FY'23) as it relates to funds set out for the New York City Department of Education ("DOE") was in contravention of New York State Law. What was most in question was whether the Emergency Declaration put forth by the Schools Chancellor on May 31 was a valid exercise of the Chancellor's powers. The Court finds that it was not, for the reasons indicated on the record. As such, the vote of the New York City Council on the FY'23 budget should have occurred after the Panel for Education Policy held its own vote on the budget, which it did not. Therefore, the Court finds that the petitioners have succeeded on the merits.

As both sides have argued, limbo as to the budget will cause irreparable harm to New York City schools, and therefore that prong of the petition is met. Lastly, the balance of the equities clearly favors the petitioners due to the found violation of state law.

This Decision and Order does not, and this Court cannot opine as to what level of funds should have gone into the FY'23 budget as it relates to the DOE budget. This Decision and Order is limited to the DOE budget and should not be seen in any way as making any changes to the budget as to any other agency's budget. That being written, this decision does not preclude any amendments otherwise to the FY'23 to be consistent with this Decision and Order and other applicable law.

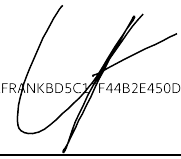
Based on the foregoing, it is hereby

ORDERED that except as indicated below, the New York City FY '23 budget as it relates to expenditures by the Department of Education only is vacated, and all such spending levels shall revert back to the levels in the Fiscal Year 2022 New York City budget; and it is further

ORDERED that the New York City Council and the Mayor of the City of New York shall be authorized to amend the Fiscal Year 2023 New York City budget consistent with this Decision and Order and all other applicable law, at which point the Fiscal Year 2022 spending levels will no longer be required to be complied with; and it is further

ORDERED that nothing in this Order shall prevent: a) the allocation of additional funds to DOE from sources other than from New York City expenditures, such as the Federal Government; b) the implementation of the dyslexia program already being created by the DOE; c) net-zero transactions involving transfer of staff within the system; and d) budget changes associated with grants where the grantor is not the City of New York.

20220805092622LFRANKBD5C7F44B2E450D982B8855C797C3FB



8/5/2022

DATE

LYLE E. FRANK, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE

Exhibit D

Letter from City Council members to Mayor Adams and

Chancellor Banks dated July 12, 2022,

<https://council.nyc.gov/press/wp-content/uploads/sites/56/2022/07/Council-Leadership-Letter-to-Mayor-Chancellor-re-School-Budgets-1.pdf>.



THE COUNCIL OF
THE CITY OF NEW YORK

ADRIENNE ADAMS
SPEAKER

CITY HALL
NEW YORK, NY 10007

TELEPHONE
(212) 788-7210

July 12, 2022

Mayor Eric Adams
City Hall
New York, NY 10007

Chancellor David C. Banks
New York City Department of Education
Tweed Courthouse
52 Chambers Street
New York, NY 10007

Dear Mayor Adams and Chancellor Banks:

As follow-up to our many conversations and meetings, we write to express our opposition and disappointment with how the Department of Education is administering individual school budgets. DOE's return to long-standing, dysfunctional and bureaucratic policies that negatively impact schools is counterproductive. Principals, schools, and teachers must make important decisions within the next month, and your continued inaction is hampering their ability to make the right choices for students. We urge you to immediately restore school budgets to prevent the elimination of key programs and teachers at schools for the upcoming year.

Our communities and young people are reeling from the effects of the pandemic. DOE's significant reductions to school budgets will hurt those with the greatest needs – Black and brown students, those from low-income communities and families, students with disabilities, and English language learners. The [reports](#) of DOE removing funding from individual schools, unrelated to the city budget, is further evidence of its harmful policies. That is why those of us who voted in the majority to approve the budget and those of us who did not are united in demanding you urgently resolve these problems with school budgets. We must close the immediate gap faced by our schools, while working to address the systemic problems with DOE's school budget policies.

Declining federal stimulus funds cannot be an excuse for bad policy decisions, and the funds exist within DOE's \$37.6 billion budget to support schools. As of June 7, the Independent Budget Office tracker identified \$761 million in unspent federal stimulus funds for Fiscal Year 2022 and \$38.1 million from Fiscal Year 2021 within the agency's budget (the Comptroller's Office identified at least \$620 million in unspent ARPA and CRRSSA Education funds). These are funds that must be used for school budgets, consistent with [President Biden's recent call for school systems across the U.S.](#) to

“leverage these funds to expand programming and services to help students make up for lost learning time and succeed.” We are demanding that DOE restore school budgets now before teachers must make final decisions on placements and are permanently separated from their schools.

DOE has indicated a gap in school budgets of approximately \$215 million, barely 0.06% of the agency’s \$37.6 billion budget. Despite differing amounts of funding being reported as cut from schools by DOE, indicating even greater reductions and the policy-driven nature of school budgets, the solution remains the same¹. DOE’s numbers are not adding up, and it seems to be using the city budget as a smokescreen to evade responsibility for its policies that undermine support for schools.

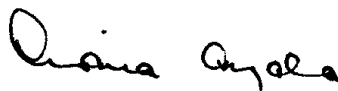
We must confront the DOE’s status quo policies on school budgets that poorly serve schools and students. Agency representatives recently testified that these policies and processes are inefficient. By underestimating enrollment in initial budgets that typically get adjusted over the course of the year, the DOE disrupts sensible school budget planning. Schools should not be required to go through an appeal process to get the resources they need. We request DOE commit to a formal process with school stakeholders, including the Council, that leads to concrete changes to school budget policies and the funding formula by next fiscal year’s city budget and school budgets.

Your refusal to work towards resolution of these issues within the budget process has made them continuing items to address. The DOE’s school budget policies are disrupting school communities in every borough, and we cannot afford for them to continue. The response we have received from you thus far – to wait until the school year to address this issue – is unacceptable, because it will be too late to avoid the negative impact on students. We are demanding that you restore the funds ahead of the looming major decisions within the month that allow schools to adequately and fairly plan for the school year. We look forward to your expedited action that permits us all to work towards adequately supporting our students. Please send any questions to the Council’s Director of Oversight and Investigations, Aaron Mendelsohn, at amendelsohn@council.nyc.gov or (212) 482-4240.

Sincerely,



Adrienne E. Adams
Speaker



Diana Ayala
Deputy Speaker



Keith Powers
Majority Leader



Selvena N. Brooks-Powers
Majority Whip



Justin Brannan
Council Member



Gale A. Brewer
Council Member

¹ The Office of the NYC Comptroller has compared the initial Fiscal Year 2022 school allocations to the initial Fiscal Year 2023 FSF allocations and indicated a "net reduction of \$489 million between the two years." The Comptroller's Office has also stated that "1,166 schools lost a total of \$469 million."



Rafael Salamanca, Jr.
Council Member



Rita Joseph
Chair, Committee on
Education



Christopher Marte
Council Member



Carlina Rivera
Council Member



Erik Bottcher
Council Member



Julie Menin
Council Member



Shaun Abreu
Council Member



Carmen De La Rosa
Council Member



Eric Dinowitz
Council Member



Kevin Riley
Council Member



Marjorie Velázquez
Council Member



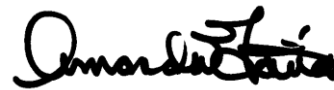
Pierina Sanchez
Council Member



Oswald Feliz
Council Member



Althea Stevens
Council Member



Amanda Farías
Council Member



Sandra Ung
Council Member



Francisco Moya
Council Member



Tiffany Cabán
Council Member

Linda Lee
Council Member

Jim Gennaro
Council Member

Shekar Krishnan
Council Member

Julie Won
Council Member

Nantasha Williams
Council Member

Lynn Schulman
Council Member

Lincoln Restler
Council Member

Jennifer Gutiérrez
Council Member

Crystal Hudson
Council Member

Chi Ossé
Council Member

Sandy Nurse
Council Member

Alexa Avilés
Council Member

Shahana Hanif
Council Member

Farah N. Louis
Council Member

Mercedes Narcisse
Council Member

Ari Kagan
Council Member

Kamillah M. Hanks
Council Member

Exhibit E

Mem of Assembly Rules Comm, Bill Jacket, L 2003, ch 123 and New York
Assembly Memorandum in Support of A 9133, Legislation submitted in
accordance with Assembly Rule III, § 1 (f)

MB

LAWS OF 20 03

SENATE BILL 5688

ASSEMBLY BILL _____

5688

2003-2004 Regular Sessions

IN SENATE

June 19, 2003

Introduced by Sens. PAVAN, GOLDEN, KRUGER, LACHMAN, MALTESE, MENDEZ, SABINI, A. SMITH, M. SMITH, VELELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the education law, in relation to establishing the community district education council within the New York city community school district system; and providing for the repeal of such provisions upon the expiration thereof and to amend chapter 91 of the laws of 2002 amending the education law and other laws relating to the reorganization of the New York city school construction authority, board of education and community boards, in relation to extending certain provisions of such chapters

A.9113 / Rules (Sanders)

DATE RECEIVED BY GOVERNOR:

7-7

ACTION MUST BE TAKEN BY:

7-18

DATE GOVERNOR'S ACTION TAKEN:

JUL 09 2003

000001

SENATE VOTE ___ Y ___ N

HOME RULE MESSAGE ___ Y ___ N

DATE _____

ASSEMBLY VOTE ___ Y ___ N

DATE _____

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S5688

SPONSOR: PADAVAN

TITLE OF BILL: An act to amend the education law, in relation to establishing the community district education council within the New York city community school district system; and providing for the repeal of such provisions upon the expiration thereof and to amend chapter 91 of the laws of 2002 amending the education law and other laws relating to the reorganization of the New York city school construction authority, board of education and community boards, in relation to extending certain provisions of such chapters

PURPOSE OR GENERAL IDEA OF BILL: To adopt a new community governance structure for the New York City school district, which would provide an opportunity for meaningful participation for both parents and the community.

SUMMARY OF SPECIFIC PROVISIONS: Section 1 would make conforming changes to Section 2590 of the Education Law.

Section 2 would create a community district education council in each community district and establish a city-wide council on special education. The city wide council and special education would consist of 11 voting members and one non-voting member: 9 voting members would be parents of children receiving services pursuant to article 89 of the education law to be selected by parents of such children through a representative process developed by the chancellor; 2 voting members to be appointed by the public advocate of the city of New York; and one non-voting member who would be a high school student receiving special education services to be selected by the administrator of city-wide special education services. The city-wide council on special education would serve in an advisory capacity.

Section 3 would provide for the composition of the community district education councils, which would have 11 voting members and one nonvoting member: 9 voting members would be parents selected by the elected officials of parent associations and parent-teacher associations; 2 voting members would be appointed by the borough president; and the nonvoting member would be a high school senior appointed by the superintendent. This section would also require the chancellor to develop a process for nomination and selection of parent members and a process to ensure uniform election procedures for parent association and parent-teacher association elections. Finally, this section would require the first selection process to be completed before the last week in October 2003, with terms commencing December 1, 2003 and future selections to take place on the second Tuesday in May with terms commencing the following July 1st.

Section 4 would provide that the community councils would develop a process for community involvement in connection with evaluation of the

superintendent and instructional supervisors.

Section 5 would provide for the powers and duties of the community councils, which would continue to possess the current powers of the community boards and would give the community councils additional powers including: hold monthly meetings with the superintendent, submit an evaluation to the superintendent and other supervisors, hold a hearing on the district's annual capacity needs, and review the quality of the district's educational programs.

Section 6 would require the superintendent to provide the community council with data concerning student achievement in the district.

Section 7 would make conforming changes to Section 2590-g of the Education Law.

Section 8 would make conforming changes to Section 2590-h. of the Education Law and expand and codify the powers and duties of the school based leadership teams.

Section 9 would make conforming changes to Section 2590-l of the Education Law.

Section 10 would make conforming changes to Section 2590-m of the Education Law.

Section 11 would make conforming changes to Section 2590-p of the Education Law.

Section 12 would make conforming changes to Section 2590-q of the Education Law.

Section 13 would make conforming changes to Section 2801 of the Education Law.

Section 14 would ensure that existing rules or regulations of community school boards would remain in effect and would continue in full force and effect until modified or repealed.

Section 15 would delay the repeal of the community school boards until November 30, 2003 to coincide with the commencement of the community councils.

Section 16 would provide for the effective date and a sunset date for all changes on June 30, 2009.

EFFECTS OF PRESENT LAW WHICH THIS BILL WOULD ALTER: The bill would amend various provisions of Article 52-A of the Education Law in relation to the community governance system in the New York City School District.

JUSTIFICATION: In June 2002 the Legislature approved a new comprehensive governance plan for the New York City School District which gave the Mayor and the Chancellor greater control over the management of the school district. Part of this plan included provisions which eliminated the district's 32 community school boards on June 30, 2003 and created the Task Force on Community School District Governance Reform. This Task Force was required to make recommendations and propose a new governance system for the community school districts in the New York School

District. Their input and all other proposals and recommendations over the past year have been carefully considered to develop a new governance system that is accountable and efficient. This proposal, in a balanced manner addresses the need for proper representation, reform and other changes that are needed to produce a system that works.

PRIOR LEGISLATIVE HISTORY: This is new legislation.

FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENTS: Undetermined.

EFFECTIVE DATE: Immediately and will expire June 30, 2009.

C 123

STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

Attorney General

ELIOT SPITZER

Legislative Bureau

TO: COUNSEL TO THE GOVERNOR

Re: SENATE 5688

ASSEMBLY

Inasmuch as this bill does not appear to relate to the functions of the Department of Law, I am not commenting thereon. However, if there is a particular aspect of the bill upon which you wish comment, please advise me.

ELIOT SPITZER
ATTORNEY GENERAL

Date: July 17, 2003

000006

B-201

BUDGET REPORT ON BILLS

Session Year 2003

SENATE:
No. 5688

Introduced by:
Senator Padavan

ASSEMBLY:
No.

Law: Education Law, Chapter 91 of the Laws of 2002

Sections: 2590-a, 2590-b, 2590-c, 2590-d, 2590-e, 2590-f, 2590-g, 2590-h, 2590-l, 2590-m, 2590-p, 2590-q, 2801, Section 34 of Chapter 91 of the Laws of 2002

Division of the Budget recommendation on the above bill:

Approve: _____ Veto: _____ No Objection: X No Recommendation: _____

1. Subject and Purpose:

Effective immediately and in effect until June 30, 2009, this bill would alter the governance structure of the New York City school system by replacing New York City's 32 local school boards with a similar number of community district education councils as well as a city-wide council on special education. The bill continues the existing community school boards until November 30, 2003.

2. Summary of Provisions:

The city-wide council on special education will consist of eleven voting members (and one nonvoting member) who will serve for two years. It will be composed of nine parents selected by parents of children who receive special education services. In addition, two members -- persons with experience in the areas of education or employment of persons with disabilities -- will be appointed by the public advocate of the city of New York. A nonvoting high school senior will be appointed by the Chancellor's supervisor of special education programs for a one-year term. Vacancies will be filled by a process to be developed by the Chancellor in consultation with parents of disabled students.

The city-wide council will have the power to advise and comment on educational or instructional policy, on services provided to disabled students, and on the establishment of committees/subcommittees on special education in community school districts. It will also issue an annual report on services provided by the city-wide district, and will hold at least one public meeting per month.

The community district education councils will consist of eleven voting members (and one nonvoting member) who will serve for two years. It will be composed of nine parents of students selected by the presidents and officers of the parents' association or parent-teachers' association on or before October 31, 2003. In addition, two community members who have business experience will be appointed by the borough president. A nonvoting high school senior will be appointed by the district superintendent for a one-year term. Initial terms will begin on December 1, 2003.

000007

Beginning in 2005, the selection of council members will take place on the second Tuesday in May with terms commencing the following July 1. Vacancies will be filled by the community district education council after consultation with presidents' council or other body representing parents' associations and other education groups within the district.

Each community council shall submit a monthly performance report to the city board of education including information on members' attendance, votes on issues, participation in community council activities, and the like. The city board will compile such documents into semiannual reports.

The Chancellor shall develop a uniform election process for parent associations and parent-teacher associations, develop a process for nomination and selection of candidates for members of community councils to ensure that such councils are representative of the local community, promulgate rules regarding financial disclosure by nominees as well as to prohibit political endorsements for campaign contributions to nominees, ensure the distribution of guides to parents regarding community councils and their roles, and ensure that there be public hearings and input from parents regarding any procedures or rules and regulations.

The councils will have input in the evaluation of superintendents and other top administrators. Members will also meet monthly with the superintendent and review the quality of educational programs. The councils will also deal with district zoning issues and capital plans.

No person may serve on more than one community council or on both the city-wide council on special education and a community council. Individuals holding elected office will be ineligible for membership as will anyone convicted of a felony or who has been removed from a community or city-wide council.

The bill amends Chapter 91 of the Laws of 2002 to provide for the continuance of the existing community school boards until November 30, 2003.

3. Legislative History:

This is a new bill, but one that implements a key provision of Chapter 91 of the Laws of 2002. Chapter 91 repealed the existing community school boards, effective June 30, 2003, and provided for a task force on community school district governance reform to discuss models to replace the community school boards.

4. Arguments in Support:

Enactment of this bill will establish a process and structure for parental and community involvement concerning the New York City school system.

5. Arguments in Opposition:

It can be argued that the bill is technically flawed in that it does not provide for a selection date or for a starting date for the terms of members of the city-wide council on special education.

6. Other State Agencies Interested:

The position of the State Education Department on this bill is not known at this time.

7. Other Interested Groups:

The Conference of Big 5 City School Districts has no position on this bill.

The New York State School Boards Association has no position on this bill.

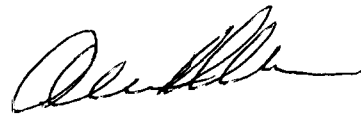
In its memorandum in support, the New York City Department of Education notes that both the Mayor and Chancellor provided input to the task force authorized by Chapter 91 and offers its support for this new governance system.

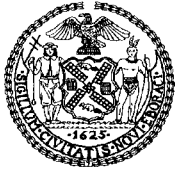
8. Budget Implications:

None for the State.

9. Recommendation:

Because this bill implements a key provision of Chapter 91 of the Laws of 2002 and will provide for a meaningful role for parents and the community in the New York City school system, this office has no objection to the enactment of this bill.





⑥ C 123

S.5688

THE NEW YORK CITY DEPARTMENT OF EDUCATION

Stephen K. Allinger, Executive Director

OFFICE OF INTERGOVERNMENTAL AFFAIRS

July 9, 2003

Honorable Richard Platkin
Counselor to the Governor
Executive Chamber
State Capitol
Albany, New York 12224

RECEIVED

JUL 10 2003

NEW YORK STATE
EXECUTIVE CHAMBER
COUNSEL

Re. Senate bill 5688

Dear Mr. Platkin:

I am writing to urge that the Governor approve the above referenced legislation.

The New York City Department of Education **supports** Senate bill 5688, which would amend the Education Law, in relation to establishing community district education councils within the New York City Community School District System.

This legislation would adopt a new community governance structure for the New York City school system, which would provide an opportunity for meaningful participation for both parents and the community. In June 2002, the Legislature approved a comprehensive governance plan for the New York City school system, which gave the Mayor control over the management of the school district. Part of this plan included provisions that eliminated the district's 32 community school boards as of June 30, 2003 and created the Task Force on Community School District Governance Reform. This Task Force was required to make recommendations and propose a new governance system for the community school districts in New York City.

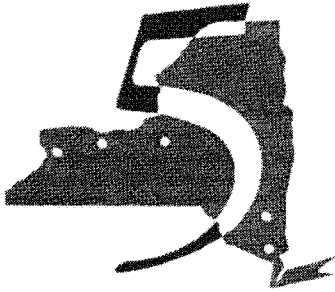
The Community District Education Councils and the citywide Council on Special Education that would be established under this legislation are consistent with the Mayor's and the Chancellor's principles for community district governance reform as presented to the State Task Force early this year. The Mayor and Chancellor believe that parents should have the dominant voice in a new structure that is focused on the educational mission of the schools they represent, rather than mired in inappropriate operational details. The proposal presented by the Mayor and Chancellor also called for a "bottom up" selection process that builds on existing parent associations as a way to strengthen the connection between schools and the families they serve while minimizing the influence of outside politics on the affairs of community schools. This legislation incorporates the key recommendations proposed by the Mayor and the Chancellor on Community School District Governance reform.

This legislation also properly focuses the councils on holding the instructional leadership of the district accountable for academic achievement and gives parents an important forum to voice their concerns. This proposal, in a balanced manner, addresses the need for proper representation, reform and other changes that are needed to produce a system that works for all children.

I urge the Governor to approve this legislation.

Sincerely,

Stephen K. Allinger
Stephen K. Allinger
Executive Director



CONFERENCE OF BIG 5 SCHOOL DISTRICTS

One Steuben Place, 5th Floor Loft
Albany, New York 12207
Big5schools.home.mindspring.com

Telephone: (518) 465-4274
Fax: (518) 465-0638
Big5schools@mindspring.com

OFFICERS

Chairperson
DONALD A. VANEVERY
Buffalo

Vice Chairperson
DARRYL PORTER
Rochester

Treasurer
THOMAS WEIBRECHT
Yonkers

EXECUTIVE COMMITTEE

DONALD A. VANEVERY
Buffalo

JOEL I. KLEIN
New York

DARRYL PORTER
Rochester

PAULETTE JOHNSON
Syracuse

THOMAS WEIBRECHT
Yonkers

EXECUTIVE DIRECTOR
GEORGIA M. ASCIUTTO

July 3, 2003

Richard Platkin, Esq.
Education Counsel to the Governor
State Capitol
Executive Chamber, Room 210
Albany, New York 12224

RE: S.5688

Dear Mr. Platkin:

On behalf of the New York City Department of Education, I am writing to express strong support for S.5688, which establishes a Community District Education Council in each Community School District in New York City.

This measure provides for a new community governance structure for the New York City school system. This new system was designed based upon the recommendations of the Task Force on Community School District Governance Reform and will provide a balanced approach that addresses the critical need for parent and community involvement and will serve to enhance accountability and efficiency.

The Conference of Big 5 School Districts **strongly supports** S.5688 and urges your approval of this legislation.

Sincerely,

Georgia M. Ascitutto

- This bill is not active in this session.

A09113 Summary:

BILL NO A09113

SAME AS SAME AS

SPONSOR Rules (Sanders)

COSPNR Silver, Green, Lavelle, Pheffer, Rivera P, Clark

MLTSPNSR

Amd Ed L, generally amd S34, Chap 91/2002

Establishes the community district education council within the New York city community school district system; establishes a community council for each community district; establishes a city board on special education.

A09113 Actions:

BILL NO A09113

06/19/2003 referred to education

06/20/2003 reported referred to codes

06/20/2003 reported referred to rules

06/20/2003 rules report cal.1208

06/20/2003 substituted by s5688

S05688 AMEND= PADAVAN

06/19/2003 REFERRED TO RULES

06/19/2003 ORDERED TO THIRD READING CAL.1692

06/19/2003 MESSAGE OF NECESSITY - 3 DAY MESSAGE

06/19/2003 PASSED SENATE

06/19/2003 DELIVERED TO ASSEMBLY

06/20/2003 referred to education

06/20/2003 substituted for a9113

06/20/2003 ordered to third reading rules cal.1208

06/20/2003 message of necessity - 3 day message

06/20/2003 passed assembly

06/20/2003 returned to senate

07/07/2003 DELIVERED TO GOVERNOR

07/09/2003 SIGNED CHAP.123

A09113 Memo:

NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)

BILL NUMBER: A9113

SPONSOR: Rules (Sanders)

TITLE OF BILL: An act to amend the education law, in relation to establishing the community district education council within the New York city community school district system; and providing for the repeal of such provisions upon the expiration thereof and to amend chapter 91 of the laws of 2002 amending the education law and other laws relating to the reorganization of the New York city school construction authority, board of education and community boards, in relation to extending certain provisions of such chapters

PURPOSE OR GENERAL IDEA OF BILL:

To adopt a new community governance structure for the New York City school district, which would provide an opportunity for meaningful participation for both parents and the community.

SUMMARY OF SPECIFIC PROVISIONS:

Section 1 would make conforming changes to Section 2590 of the Education Law.

Section 2 would create a community district education council in each community district and establish a city-wide council on special education. The city wide council and special education would consist of 11 voting members and one non-voting member: 9 voting members would be parents of children receiving services pursuant to article 89 of the education law to be selected by parents of such children through a representative process developed by the chancellor; 2 voting members to be appointed by the public advocate of the city of New York; and one non-voting member who would be a high school student receiving special

education services to be selected by the administrator of city-wide special education services. The city-wide council on special education would serve in an advisory capacity.

Section 3 would provide for the composition of the community district education councils, which would have 11 voting members and one nonvoting member: 9 voting members would be parents selected by the elected officials of parent associations and parent-teacher associations; 2 voting members would be appointed by the borough president; and the nonvoting member would be a high school senior appointed by the superintendent. This section would also require the chancellor to develop a process for nomination and selection of parent members and a process to ensure uniform election procedures for parent association and parent-teacher association elections. Finally, this section would require the first selection process to be completed before the last week in October 2003,

with terms commencing December 1, 2003 and future selections to take place on the second Tuesday in May with terms commencing the following July 1st.

Section 4 would provide that the community councils would develop a process for community involvement in connection with evaluation of the superintendent and instructional supervisors.

Section 5 would provide for the powers and duties of the community councils, which would continue to possess the current powers of the community boards and would give the community councils additional powers including: hold monthly meetings with the superintendent, submit an evaluation to the superintendent and other supervisors, hold a hearing on the district's annual capacity needs, and review the quality of the district's educational programs.

Section 6 would require the superintendent to provide the community

council with data concerning student achievement in the district.

Section 7 would make conforming changes to Section 2590-g of the Education Law.

Section 8 would make conforming changes to Section 2590-h of the Education Law and expand and codify the powers and duties of the school based leadership teams.

Section 9 would make conforming changes to Section 2590-l of the Education Law.

Section 10 would make conforming changes to Section 2590-m of the Education Law.

Section 11 would make conforming changes to Section 2590-p of the Education Law.

Section 12 would make conforming changes to Section 2590-q of the Education Law.

Section 13 would make conforming changes to Section 2801 of the Education Law.

Section 14 would ensure that existing rules or regulations of community school boards would remain in effect and would continue in full force and effect until modified or repealed.

Section 15 would delay the repeal of the community school boards until November 30, 2003 to coincide with the commencement of the community councils.

Section 16 would provide for the effective date and a sunset date for all changes on June 30, 2009.

EFFECTS OF PRESENT LAW WHICH THIS BILL WOULD ALTER:

The bill would amend various provisions of Article 52-A of the Education Law in relation to the community governance system in the New York City School District.

JUSTIFICATION:

In June 2002 the Legislature approved a new comprehensive governance plan for the New York City School District which gave the Mayor and the Chancellor greater control over the management of the school district. Part of this plan included provisions which eliminated the district's 32 community school boards on June 30, 2003 and created the Task Force on Community School District Governance Reform. This Task Force was required to make recommendations and propose a new governance system for the community school districts in the New York School District. Their

input and all other proposals and recommendations over the past year have been carefully considered to develop a new governance system that is accountable and efficient. This proposal, in a balanced manner addresses the need for proper representation, reform and other changes that are needed to produce a system that works.

PRIOR LEGISLATIVE HISTORY:

This is new legislation.

FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENTS:

Undetermined.

EFFECTIVE DATE: Immediately and will expire June 30, 2009.

A09113 Text:**STATE OF NEW YORK**

9113

2003-2004 Regular Sessions

IN ASSEMBLY

June 19, 2003

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Sanders, Silver, Green, Lavelle, Pheffer, P. Rivera) -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to establishing the community district education council within the New York city communi-

ty school district system; and providing for the repeal of such provisions upon the expiration thereof and to amend chapter 91 of the laws of 2002 amending the education law and other laws relating to the reorganization of the New York city school construction authority, board of education and community boards, in relation to extending certain provisions of such chapters

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivisions 4, 8 and 9 of section 2590-a of the education
2 law, subdivision 4 as added by chapter 330 of the laws of 1969, subdivi-
3 sion 8 as added by chapter 3 of the laws of 1970 and subdivision 9 as
4 added by chapter 738 of the laws of 1988, are amended to read as
5 follows:

6 4. Community ~~[board]~~ district education council. The term "community
7 ~~[board]~~ council" shall mean the ~~[board of education]~~ community district
8 education council of a community district established pursuant to
9 section twenty-five hundred ninety-c of this article.

10 ~~[8. Registered voter. The term "registered voter" shall mean an elec-~~
11 ~~tor of the city of New York under the election law.]~~

12 9. Educational facilities. The term "educational facilities" shall
13 mean land and the improvements thereon for use in connection with any
14 educational activity to be undertaken or provided by the city board or
15 any community ~~[school board]~~ council or any facility attendant thereto

16 or any facility necessary, useful or desirable in connection with such
17 activity.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD15118-07-3

A. 9113

2

1 § 2. The section heading and subdivision 2 of section 2590-b of the
2 education law, the section heading as added by chapter 330 of the laws
3 of 1969, subdivision 2 as amended by chapter 727 of the laws of 1994,
4 are amended and a new subdivision 4 is added to read as follows:

5 Continuation of city board and establishment of community districts;
6 establishment of the city-wide council on special education.

7 2. (a) There shall be a community council for each community district
8 created pursuant to this article.

9 (b) The city board shall define, adjust, alter, maintain and adopt the
10 boundaries of the community districts pursuant to this chapter no later
11 than February first, nineteen hundred ninety-five. There shall be no
12 less than thirty nor more than thirty-seven community districts.

13 (c) The city board may readjust or alter the districts in such plan
14 only once in every ten years, commencing with the year two thousand
15 four. The city board in conjunction with the chancellor and the communi-
16 ty [~~school boards~~] council representatives, shall prepare and make
17 public a plan to ensure the smooth transition of pupils and school
18 personnel, creation of new boards, and allocation of school facilities

19 and resources among the districts established pursuant to paragraph (b)
20 of this subdivision. Prior to the adoption of the transition plan, the
21 city board shall hold one or more public hearings in each borough. The
22 city board shall make the transition plan available not less than three
23 weeks before the first such public hearing. Upon receipt of comments,
24 the city board, in conjunction with the chancellor and the community
25 [~~school boards~~] council representatives, shall prepare a revised transi-
26 tion plan, if necessary and make such plan available to the public for
27 comment. [~~A final transition plan shall be adopted by the city board by~~
28 ~~November fifteenth, nineteen hundred ninety five.~~]

29 4. a. There shall be a city-wide council on special education created
30 pursuant to this section. The city-wide council on special education
31 shall consist of eleven voting members and one non-voting member, as
32 follows:

33 (1) nine voting members who shall be parents of students who receive
34 services pursuant to article eighty-nine of this chapter, to be selected
35 by parents of students who receive such services pursuant to a represen-
36 tative process developed by the chancellor. Such members shall serve a
37 two year term;

38 (2) two voting members appointed by the public advocate of the city of
39 New York, who shall be individuals with extensive experience and know-
40 ledge in the areas of educating, training or employing individuals with
41 handicapping conditions and will make a significant contribution to
42 improving special education in the city district. Such members shall
43 serve a two year term; and

44 (3) one non-voting member who is a high school senior receiving
45 services pursuant to article eighty-nine of this chapter, appointed by
46 the administrator designated by the chancellor to supervise city-wide
47 special education programs. Such member shall serve a one year term.

48 b. Members shall not be paid a salary or stipend, but shall be reim-
49 bursed for all actual and necessary expenses directly related to the
50 duties and responsibilities of the city-wide council on special educa-
51 tion.

52 c. The city-wide council on special education shall have the power to:
53 (1) advise and comment on any educational or instructional policy
54 involving the provision of services pursuant to article eighty-nine of
55 this chapter;

A. 9113

3

1 (2) advise and comment on the process of establishing committees
2 and/or subcommittees on special education in community school districts
3 pursuant to section forty-four hundred two of this chapter;

4 (3) issue an annual report on the effectiveness of the city district
5 in providing services pursuant to article eighty-nine of this chapter
6 and making recommendations, as appropriate, on how to improve the effi-

7 ciency and delivery of such services; and

8 (4) hold at least one meeting per month open to the public and during
9 which the public may discuss issues facing students with disabilities.

10 d. The city-wide council on special education may appoint a secretary,
11 pursuant to the policies of the city board who shall perform the follow-
12 ing functions: (1) prepare meeting notices, agendas and minutes; (2)
13 record and maintain accounts of proceedings and other city-wide council
14 on special education meetings; and (3) prepare briefing materials and
15 other related informational materials for such meetings. The city-wide
16 council on special education shall be responsible for the appointment,
17 supervision, evaluation and discharge of the secretary.

18 e. No person may serve on both the city-wide council on special educa-
19 tion and a community district education council. A member of the city-
20 wide council on special education shall be ineligible to be employed by
21 such council, any community district education council, or the city
22 board. No person shall be eligible for membership on the city-wide
23 council on special education if he or she holds any elective public
24 office or any elective or appointed party position except that of dele-
25 gate or alternate delegate to a national, state, judicial or other
26 party convention, or member of a county committee.

27 A person who has been convicted of a felony, or has been removed from

28 the city-wide council on special education, a community school board,
29 or community district education council for any of the following shall
30 be permanently ineligible for appointment to the city-wide council on
31 special education: (1) an act of malfeasance directly related to his or
32 her service on such city-wide council on special education, community
33 school board or community district education council; or (2) conviction
34 of a crime, if such crime is directly related to his or her service upon
35 such city-wide council on special education, community school board or
36 community district education council.

37 f. (1) In addition to the conditions enumerated in the public officers

38 law creating a vacancy, a member of the city-wide council on special
39 education who refuses or neglects to attend three meetings of such coun-
40 cil of which he or she is duly notified, without rendering in writing a
41 good and valid excuse therefore vacates his or her office by refusal to
42 serve. Each absence and any written excuse rendered shall be included
43 within the official written minutes of such meeting. After the third
44 unexcused absence the city-wide council on special education shall
45 declare a vacancy to the chancellor.

46 (2) Vacancies shall be filled for an unexpired term by the city-wide
47 council on special education, pursuant to a process developed by the

48 chancellor that shall include consultation with parents of students who
49 receive services pursuant to article eighty-nine of this chapter.

50 § 3. The education law is amended by adding a new section 2590-c to
51 read as follows:

52 § 2590-c. Composition of community district education councils. 1.
53 Each community district shall be governed by a community district educa-
54 tion council. The community councils shall consist of eleven voting
55 members and one non-voting member, as follows:

A. 9113

4

1 (a) Nine voting members shall be parents whose children are attending
2 a school under the jurisdiction of the community district and shall be
3 selected by the presidents and officers of the parents' association or
4 parent-teachers' association. Such members shall serve for a term of two
5 years.

6 (b) Two voting members shall be appointed by the borough presidents
7 corresponding to such district. Such appointees shall be residents of,
8 or own or operate a business in, the district and shall be individuals
9 with extensive business, trade, or education experience and knowledge,
10 who will make a significant contribution to improving education in the
11 district. Such members shall serve for a term of two years and may only
12 be reappointed for one additional two year term.

13 (c) One non-voting member who is a high school senior residing in the
14 district, appointed by the superintendent from among the elected student
15 leadership. Such member shall serve for a one year term.

16 Members shall not be paid a salary or stipend, but shall be reimbursed
17 for all actual and necessary expenses directly related to the duties and
18 responsibilities of the community council.

19 2. For the initial community council, such members must be selected on
20 or before October thirty-first, two thousand three, with terms commencing
21 on December first, two thousand three. Thereafter, commencing in May
22 of two thousand five, the selection of community council members shall
23 occur on the second Tuesday in May, with terms commencing on the following
24 July first.

25 3. Each such council shall select one of its voting members to serve
26 as chair.

27 4. Notwithstanding any provisions of law to the contrary, the communi-
28 ty district education council may appoint a secretary, pursuant to the
29 policies of the city board, who shall perform the following functions:
30 (a) prepare meeting notices, agendas and minutes; (b) record and main-
31 tain accounts of proceedings and other council meetings; and (c) prepare
32 briefing materials and other related informational materials for such
33 meetings. Each council shall be responsible for the appointment, super-
34 vision, evaluation and discharge of the secretary.

35 5. No person may serve on more than one community council or on both
36 the city-wide council on special education and a community council. A
37 member of a community council shall be ineligible to be employed by the
38 community council of which he or she is a member, any other community
39 council, the city-wide council on special education, or the city board.
40 No person shall be eligible for membership on a community council if he
41 or she holds any elective public office or any elective or appointed
42 party position except that of delegate or alternate delegate to a
43 national, state, judicial or other party convention, or member of a
44 county committee.

45 A person who has been convicted of a felony, or has been removed from
46 a community school board, community district education council, or the
47 city-wide council on special education for any of the following shall be
48 permanently ineligible for appointment to any community district educa-
49 tion council: (a) an act of malfeasance directly related to his or her
50 service on such city-wide council on special education, community school
51 board or community district education council; or (b) conviction of a
52 crime, if such crime is directly related to his or her service upon such
53 city-wide council on special education, community school board or commu-
54 nity district education council.

55 Any decision rendered by the chancellor or the city board with respect
56 to the eligibility or qualifications of the nominees for community

A. 9113

5

1 district education councils must be written and made available for
2 public inspection within seven days of its issuance at the office of the
3 chancellor and the city board. Such written decision shall include the
4 factual and legal basis for its issuance and a record of the vote of
5 each board member who participated in the decision, if applicable.

6 6. (a) In addition to the conditions enumerated in the public officers
7 law creating a vacancy, a member of a community district education coun-
8 cil who refuses or neglects to attend three meetings of such council of
9 which he or she is duly notified, without rendering in writing a good
10 and valid excuse therefore vacates his or her office by refusal to
11 serve. Each absence and any written excuse rendered shall be included
12 within the official written minutes of such meeting. After the third
13 unexcused absence the community council shall declare a vacancy to the
14 chancellor.

15 (b) Vacancies shall be filled for an unexpired term by the community
16 district education council after consultation with the presidents' coun-
17 cil or other consultative body representing parents' associations and
18 other educational groups within the district. Recommendations made by
19 such parents and other educational groups shall be submitted in writing
20 and included within the record of the meeting at which the vacancy is
21 filled.

22 (c) If the vacancy is not filled by the community council within sixty
23 days after it is declared due to a tie vote for such appointment, the
24 chancellor shall vote with the community council, to break such tie
25 vote. If the community council has failed to fill the vacancy within
26 sixty days after it is declared because of any other reason, the chan-
27 cellor shall order the community council to do so pursuant to section
28 twenty-five hundred ninety-1 of this article.

29 7. (a) Each community council shall prepare and submit to the city
30 board a performance report every month. The information provided shall
31 include community council members' attendance records; participation in
32 community council committees and other community council activities;
33 visits to schools; and voting records on major issues before the commu-
34 nity council.

35 (b) The city board shall review and consolidate the performance
36 reports into one comprehensive city district-wide report, which shall be
37 disseminated to the community and the media semiannually.

38 8. The chancellor shall: (a) develop a process to ensure a uniform
39 election process for parent associations and parent-teacher associ-
40 ations. Such process shall ensure uniformity with respect to timing of
41 elections and the structure and size of the body.

42 (b) develop a process for nomination of candidates for community coun-
43 cil membership. Such process will outline in detail the procedure which
44 must be followed to present a name for consideration, shall prohibit
45 officers of any parent association or parent-teacher association from
46 being nominated, may include qualifications and prohibitions in addition
47 to those outlined in this section and may allow for an interview process
48 for nominees.

49 (c) develop selection procedures for community council members which
50 shall attempt to ensure membership that reflects a representative cross-
51 section of the communities within the school district and diversity of
52 the student population including those with particular educational
53 needs, shall include consideration of the enrollment figures within each

54 community district and the potential disparity of such enrollment from
55 school to school within the district, and shall ensure that, to the

A. 9113

6

1 extent possible, a school may have no more than one parent represen-
 2 tative on the community council.

3 (d) promulgate rules and regulations requiring financial disclosure by
 4 the nominees and policies prohibiting political endorsements of and
 5 campaign contributions to nominees.

6 (e) beginning in January of each school year and continuing until the
 7 date of selection, ensure the distribution of guides to parents in addi-
 8 tion to information regarding community council roles, functions, and

9 activities, including upcoming parents' association and parent-teacher
 10 association elections, candidate information, and the nature of the
 11 selection process.

12 Prior to the adoption of the processes, procedures, rules or regu-
 13 lations set forth in this subdivision, the chancellor shall ensure that
 14 there is an inclusive public process which allows for sufficient public
 15 input from parents and the community including public hearings. All
 16 such processes, procedures, rules or regulations must be final in suffi-
 17 cient time to assure for an orderly implementation and notification of
 18 such processes, procedures, rules or regulations to allow for full
 19 community participation in the nomination and selection processes and
 20 procedures.

21 § 4. Section 2590-d of the education law, as amended by chapter 447 of
 22 the laws of 1976, subdivision 2 as amended by chapter 720 of the laws of
 23 1996, is amended to read as follows:

24 § 2590-d. By-laws; regulations and decisions. 1. The city board and
 25 the chancellor shall prescribe such by-laws and regulations as may be
 26 necessary to make effectual the provisions of this chapter and for the
 27 conduct of the proceedings of said board. Said by-laws and regulations
 28 shall be published and indexed and revised at least annually. Copies of
 29 such by-laws and regulations shall be made available for public
 30 inspection at the offices of the city board, each community [~~board~~
 31 council], the office of the commissioner of education, and the legisla-

32 tive library in Albany, and at such other places as the city board may
 33 deem proper.

34 2. Each community [~~board~~ council] shall prescribe such by-laws and
 35 regulations as may be necessary to make effectual the provisions of this
 36 chapter and for the conduct of the proceedings of said board. Such
 37 by-laws and regulations shall be filed with the city board and the
 38 commissioner of education and shall be made available for inspection by
 39 the public at the offices of the community [~~board~~ council]. Such
 40 by-laws shall include, but not be limited to the following requirements:

41 a. that there shall be a parents' association or a parent-teachers'
 42 association in each school under its jurisdiction;

43 b. that the [~~board~~ council], the community superintendent and the

44 principal of each school shall have regular communication with all
 45 parents' associations and parent-teachers' associations within the
 46 community district, and meet with their elected officers at least quar-
 47 terly during the school year, to the end that such associations are
 48 provided with full factual information pertaining to matters of pupil
 49 achievement, including but not limited to: annual reading scores,
 50 comparison of the achievement of pupils in comparable grades and
 51 schools, as well as the record of achievement of the same children as
 52 they progress through the school; provided, however, that such record
 53 and scores shall not be disclosed in a manner which will identify indi-
 54 vidual pupils.

55 c. that community councils develop and implement a process consistent

56 with procedures which shall be developed by the chancellor for community

A. 9113

7

1 input in connection with the annual evaluation of the district super-
2 intendent and other instructional supervisors assigned or appointed to
3 the district by the chancellor.

4 d. that all meetings of the community [~~board~~] council be subject to
5 article seven of the public officers law.

6 3. Copies of all written decisions rendered by the city board acting
7 as an appeal board pursuant to subdivision ten of section twenty-five
8 hundred ninety-g and copies of all written decisions rendered by the
9 chancellor pursuant to section twenty-five hundred ninety-l shall be
10 published, indexed and revised at least semi-annually. Copies of said

11 decisions shall be made available for public inspection at the offices
12 of the city board, each community [~~board~~] council, the office of the
13 commissioner of education, and at such other places as the city board
14 shall deem proper.

15 § 5. Section 2590-e of the education law, as amended by chapter 720 of
16 the laws of 1996, subdivision 9 as added by chapter 385 of the laws of
17 1998 and subdivision 10 as amended by chapter 510 of the laws of 2001,
18 is amended to read as follows:

19 § 2590-e. Powers and duties of community [~~boards~~] district education
20 council. Each community [~~board~~] council shall have the following powers
21 and duties to establish educational policies and objectives, not incon-
22 sistent with the provisions of this article and the policies established

23 by the city board, with respect to all pre-kindergarten, nursery,
24 kindergarten, elementary, intermediate and junior high schools and
25 programs in connection therewith in the community district. The communi-
26 ty [~~boards~~] councils shall have no executive or administrative powers or
27 functions, but shall have the following powers and duties:

28 3. promote achievement of educational standards and objectives relat-
29 ing to the instruction of students.

30 4. cooperate as required by the chancellor in the removal from office
31 pursuant to section twenty-five hundred ninety-l of this article of any
32 community [~~board~~] council member for willful, intentional or knowing
33 involvement in the hiring, appointment or assignment of employees other
34 than as specifically authorized in this article.

35 5. a. require community [~~board~~] council members, the community super-
36 intendent, and any other officer or employee in schools and programs
37 under the jurisdiction of the community [~~boards~~] councils, to make annu-
38 al written disclosure, in accordance with regulations and bylaws of the
39 city board developed in consultation with the community [~~boards~~] coun-
40 cils, to the community [~~board~~] council and the city board, of the
41 following information:

42 (1) the employment by the city school board or any community [~~board~~]
43 council of any person related within the third degree of consanguinity
44 or affinity to the person making disclosure, including the employment of
45 any such person for which a two-thirds vote was required under paragraph

46 e of subdivision four of section twenty-five hundred ninety-j of this
47 chapter with a notation of the date such vote was taken.

48 (2) the source of any income, reimbursement, gift or other form of
49 compensation for services rendered together with a description of such
50 services.

51 (3) the source of any financial contribution made within the year
52 preceding the election or the term of office of a community [~~board~~]
53 district education council member to assist in the election or
54 reelection of such member of the community [~~board~~] council, and the
55 amount of such contribution, consistent with any applicable regulations
56 of the city board and the board of elections.

A. 9113

8

1 b. willful or repeated failure to make full and timely disclosure
2 shall constitute cause for removal from office of any member of a commu-
3 nity ~~[board]~~ council or for any other officer or employee disciplinary
4 action and such other penalty as provided by law.

5 c. all written disclosures required hereunder shall be filed with the
6 community ~~[board]~~ council and the city board and shall be available for
7 public inspection during regular business hours on regular business
8 days.

9 6. require community ~~[board]~~ council members, candidates for community
10 ~~[boards]~~ district education councils, the community superintendent and,
11 for good cause shown, any other officer or employee in schools and

12 programs under the jurisdiction of the community ~~[boards]~~ councils to
13 submit to the city board and the community ~~[boards]~~ councils, in accord-
14 ance with regulations and bylaws of the city board developed in consul-
15 tation with the community ~~[boards]~~ councils, financial reports for them-
16 selves and their spouses, provided that in the case of community ~~[board]~~
17 council members and candidates for community ~~[boards]~~ councils the
18 statement of financial disclosure and the frequency with which it must
19 be filed must satisfy at least the requirements and standards for
20 disclosure of section seventy-three-a of the public officers law.

21 a. the frequency and period of coverage, the designation of persons to

22 submit such reports by name, title or income level or by a combination
23 thereof, and the content of such reports, including minimum dollar
24 amounts, shall be determined by the city board.

25 b. willful or repeated failure to file required financial reports or
26 make other required disclosures shall constitute cause for removal from
27 office of any member of a community ~~[board]~~ council or for any other
28 officer or employee disciplinary action and such other penalty as
29 provided by law. No person may assume office as a community ~~[board]~~
30 council member without previously complying with this subdivision,
31 subdivision five of this section, and with all applicable financial
32 disclosure requirements promulgated by the board of elections.

33 7. participate in training and continuing education programs pursuant

34 to the provisions of this subdivision.

35 (1) Community ~~[board]~~ district education council members shall partic-
36 ipate in training to acquaint them with the powers, functions and duties
37 of community ~~[board]~~ council members, as well as the powers of other
38 governing and administering authorities that affect education including
39 the powers of the commissioner, city board, chancellor and community
40 superintendents. Such participation shall be completed no later than
41 ~~[six]~~ three months from the date in which a community ~~[board]~~ council
42 member takes office for the first time.

43 (2) Each community ~~[board]~~ district education council member shall be
44 required to participate in continuing education programs on an annual

45 basis as defined by the chancellor. Participation in training pursuant
46 to paragraph one of this subdivision by a community ~~[board]~~ district
47 education council member who takes office for the first time shall be
48 deemed to satisfy the requirements of this subdivision for the first
49 year of such member's term.

50 (3) such training and continuing education programs shall be approved
51 by the chancellor, following consultation with the commissioner, and may
52 be provided by the state education department, the city board, the chan-
53 cellor or a nonprofit provider authorized by the chancellor to provide
54 such training and continuing education programs.

55 (4) the chancellor is authorized to promulgate regulations regarding
56 providers and their certification, the content and implementation of the

A. 9113

9

1 training and continuing education programs. Any such regulations shall
2 be developed after consultation with the commissioner.

3 (5) such training and continuing education programs shall be offered
4 on an annual basis or more frequently, as needed, to enable community
5 ~~board~~ council members to comply with this subdivision.

6 (6) failure of community ~~board~~ council members to comply with the
7 training and continuing education requirements mandated by this subdivi-
8 sion shall constitute cause for removal from office pursuant to section
9 twenty-five hundred ninety-1 of this article.

10 8. Each year prepare a school district report card pursuant to regu-
11 lations of the commissioner, and shall make it publicly available by

12 transmitting it to local newspapers of general circulation, appending it
13 to copies of the proposed budget made publicly available as required by
14 law, making it available for distribution at the annual meeting, and
15 otherwise disseminating it as required by the commissioner. Such report
16 card shall include measures of the academic performance of the school
17 district, on a school by school basis, and measures of the fiscal
18 performance of the district, as prescribed by the commissioner. Pursuant
19 to regulations of the commissioner, the report card shall also compare
20 these measures to statewide averages for all public schools, and state-
21 wide averages for public schools of comparable wealth and need, devel-
22 oped by the commissioner. Such report card shall include, at a minimum,
23 any information on the school district regarding pupil performance and

24 expenditure per pupil required to be included in the annual report by
25 the requests to the governor and the legislature pursuant to section two
26 hundred fifteen-a of this chapter; and any other information required by
27 the commissioner. School districts (i) identified as having fifteen
28 percent or more of their students in special education, or (ii) which
29 have fifty percent or more of their students with disabilities in
30 special education programs or services sixty percent or more of the
31 school day in a general education building, or (iii) which have eight
32 percent or more of their students with disabilities in special education
33 programs in public or private separate educational settings shall indi-
34 cate on their school district report card their respective percentages
35 as defined in this paragraph and paragraphs (i) and (ii) of this subdivi-

36 sion as compared to the statewide average.

37 9. Subject to paragraph (o) of subdivision one of section twenty-five
38 hundred ninety-f of this article, to employ or retain counsel subject to
39 the powers and duties of the corporation counsel of the city of New York
40 to be the district's attorney and counsel pursuant to subdivision a of
41 section three hundred ninety-four of the New York city charter in
42 actions or proceedings in which the ~~board~~ council or any member there-
43 of is a defendant or a respondent.

44 10. Where the district has provided transportation to students
45 enrolled in such district to a school sponsored field trip, extracurric-
46 ular activity or any other similar event, it shall provide transporta-
47 tion back to either the point of departure or to the appropriate school

48 in the district, unless the parent or legal guardian of a student
49 participating in such event has provided the school district with writ-
50 ten notice, consistent with district policy, authorizing an alternative
51 form of return transportation for such student or unless intervening
52 circumstances make such transportation impractical. In cases where
53 intervening circumstances make transportation of a student back to the
54 point of departure or to the appropriate school in the district imprac-
55 tical, a representative of the school district shall remain with the
56 student until such student's parent or legal guardian has been (a)

A. 9113

10

1 contacted and informed of the intervening circumstances which make such
2 transportation impractical and (b) such student had been delivered to

3 his or her parent or legal guardian.

4 11. Approve zoning lines, as submitted by the superintendent, consist-
5 ent with the regulations of the chancellor, applicable to schools under
6 the jurisdiction of the community district.

7 12. Hold meetings at least every month with the superintendent to
8 discuss the current state of the schools in the district and progress
9 made toward the implementation of the district's comprehensive education
10 plan required by the chancellor.

11 13. Review of the district's educational programs and assess their
12 effect on student achievement.

13 14. Hold public meetings at least every month with the superintendent
14 during which the public may speak so that parents and the community have

15 a voice and a public forum to air their concerns.

16 15. Submit an annual evaluation of the superintendent to the chancel-
17 lor.

18 16. Submit an annual evaluation consistent with procedures which shall
19 be developed by the chancellor of all other instructional supervisory
20 personnel who have responsibility for more than one school within the
21 district.

22 17. Hold a public hearing on the district's annual capacity plans,
23 recommended by the superintendent and based on data from the chancellor
24 on enrollment/utilization for each school within the district and submit
25 such plan, upon approval by the community council, to the chancellor for
26 his or her approval and implementation.

27 18. Provide input, as it deems necessary, to the chancellor and the
28 city board on matters of concern to the district.

29 19. Liaison with school leadership teams as may be necessary and
30 provide assistance to the school leadership teams where possible.

31 § 6. Paragraphs (s) of subdivision 1, subdivisions 2 and 3 of section
32 2590-f of the education law, paragraph (s) of subdivision 1 as added by
33 chapter 149 of the laws of 1998, paragraph (s) of subdivision 1 as added
34 by chapter 385 of the laws of 1998, subdivision 2 as amended by chapter
35 91 of the laws of 2002 and subdivision 3 as added by chapter 720 of the
36 laws of 1996, are amended and subdivision 1 is amended by adding a new
37 paragraph (u) to read as follows:

38 (s) to provide written notice and other related information described

39 in paragraph (b) of subdivision [~~three~~] four of section twenty-five
40 hundred ninety-c of this article to every parent of a child, including a
41 child with a disability, attending a school under the jurisdiction of
42 his or her community [~~board~~] district education council as directed by
43 the chancellor.

44 [~~(s)~~] (t) notwithstanding any provisions of law to the contrary, to
45 exercise all of the duties and responsibilities of the employing board
46 as set forth in section three thousand twenty-a of this chapter pursuant
47 to a delegation of the chancellor under section twenty-five hundred
48 ninety-h of this article.

49 (u) to provide relevant data to the community district education coun-
50 cil to encourage informed and adequate public discussion on student

51 achievement and the state of each school within the district.

52 2. In exercising such powers and duties each community superintendent
53 shall comply with all applicable provisions of law, by-laws, rules or
54 regulations, directives or agreements of the chancellor and his or her
55 community [~~board~~] district education council and with the city-wide
56 educational policies established by the city board and his or her commu-

A. 9113

11

1 nity [~~board~~] district education council, including performance standards
 2 addressed to administration and educational effectiveness, and any
 3 requirements for continuing training and education, embodied in stand-
 4 ards, circulars or regulations promulgated by the chancellor.

5 3. No person who has served as a member of a community [~~board~~]
 6 district education council may be employed by that board or the super-
 7 intendent of that district within a period of three years after the
 8 termination of such service unless such person qualifies for the posi-
 9 tion pursuant to a competitive examination and applicable provisions of
 10 the civil service law.

11 § 7. Subdivision 4 of section 2590-g of the education law, as amended
 12 by chapter 91 of the laws of 2002, is amended to read as follows:

13 4. subject to the provisions of section twenty-five hundred ninety-i
 14 of this article, maintain such jurisdiction over city-wide educational
 15 policies governing the special, academic, vocational, and other high
 16 schools authorized by this article before the effective date of this

17 section as the respective community [~~boards~~] district education councils
 18 maintain over the schools within their jurisdiction, which shall not be
 19 construed to require or authorize the day-to-day supervision or the
 20 administration of the operations of such schools.

21 § 8. Paragraph (a) of subdivision 1 and subdivisions 2, 9, 11, 13, 15,
 22 31, 38, 39, 40 and 44 of section 2590-h of the education law, paragraph
 23 (a) of subdivision 1, subdivisions 2, 9, 11, 13 and 15 as amended and
 24 subdivision 31 as added by chapter 720 of the laws of 1996, subdivision
 25 38 as added by chapter 385 of the laws of 1998 and subdivisions 39, 40
 26 and 44 as added by chapter 91 of the laws of 2002, are amended to read
 27 as follows:

28 (a) academic and vocational senior high schools until such time as the

29 same may be transferred to the jurisdiction of appropriate community
 30 [~~boards~~] district education councils pursuant to this article;

31 2. Establish, control and operate new schools or programs of the types
 32 specified in subdivision one of this section, or to discontinue any such
 33 schools and programs as he or she may determine; provided, however, that
 34 [~~he~~] the chancellor shall consult with the affected community [~~board~~]
 35 district education council before:

36 (a) substantially expanding or reducing such an existing school or
 37 program within a community district;

38 (b) initially utilizing a community district school or facility for
 39 such a school or program;

40 (c) instituting any new program within a community district.

41 9. Furnish community [~~boards~~] district education councils and the city
 42 board periodically with the results of such examinations and evaluations
 43 and to make the same public.

44 11. Require such community [~~board~~] district education council or
 45 superintendent to make such number of periodic reports as may be neces-
 46 sary to accomplish the purposes of this chapter.

47 13. Perform the following functions throughout the city district;
 48 provided, however, that the chancellor and any community [~~board~~]
 49 district education council may agree that any such function may be
 50 appropriately performed by the community [~~board~~] district education
 51 council with respect to the schools and programs under its jurisdiction:

52 (a) Technical assistance to community districts and schools;

53 (b) Such warehouse space on a regional basis as he or she determines
 54 to be necessary or appropriate after consultation with the community
 55 superintendents;

A. 9113

12

1 (c) Purchasing services on a city-wide, regional or community district
 2 basis subject to subdivision thirty-six of this section;

3 (d) Reinforce and foster connections to institutions of higher educa-
 4 tion to promote student achievement.

5 15. Promote the involvement and appropriate input of all members of
 6 the school community pursuant to the provisions of this article, includ-
 7 ing parents, teachers, and other school personnel, including:

8 (a) establishing a parents' association or a parent-teachers' associ-
 9 ation in each school under the chancellor's jurisdiction; and ensuring
 10 that the districts do the same;

11 (b) pursuant to a plan prepared in consultation with associations of
 12 parents, and representatives of teachers, supervisors, paraprofessionals
 13 and other school personnel within the city district, and promulgated no
 14 later than January thirty-first, nineteen hundred ninety-eight, (i)
 15 taking all necessary steps to ensure that no later than October first,
 16 nineteen hundred ninety-nine, the city district and the community
 17 districts are in full compliance, and remain in compliance thereafter,
 18 with state and federal law and regulations concerning school-based
 19 management and shared decision-making, including section 100.11 of the
 20 commissioner's regulations, in a manner which balances participation by
 21 parents with participation by school personnel in advising in the deci-
 22 sions devolved to schools pursuant to sections ~~twenty-five~~ twenty-five
 23 hundred ninety-i and twenty-five hundred ninety-r of this article, and
 24 (ii) pursuant to such plan providing for appropriate training to any
 25 parent and school personnel who participate in the school-based manage-
 26 ment and shared decision-making process; ~~and~~

27 (b-1) school based management teams developed pursuant to paragraph
 28 (b) of this subdivision shall possess the following powers and duties:
 29 (i) develop an annual school comprehensive educational plan that is
 30 aligned with the school based budget. Such plan shall be submitted to
 31 the district superintendent and be made available for public inspection;

32 (ii) hold at least one meeting per month during the school year. Each
 33 monthly meeting shall be held at a time that is convenient for the
 34 parent representatives;

35 (iii) provide notice of monthly meetings that is consistent with the
 36 open meetings law;

37 (iv) have parent members of such teams make recommendations, consist-
 38 ent with the chancellor's regulations, on the selection of the school
 39 principal;

40 (v) undergo initial and ongoing training that will allow its members
 41 to carry out their duties effectively; and

42 (c) developing, in consultation with associations of parents in the
 43 city district, and implementing no later than October first, nineteen
 44 hundred ninety-eight, a parental bill of rights which provides for, at
 45 minimum:

46 (i) reasonable access by parents, persons in parental relation and
 47 guardians to schools, classrooms, and academic and attendance records of
 48 their own children, consistent with federal and state laws, provided
 49 that such access does not disrupt or interfere with the regular school
 50 process;

51 (ii) the rights of parents, persons in parental relation and guardians
 52 to take legal action and appeal the decisions of the school adminis-
 53 tration, as authorized by law;

54 (iii) the right of parents, persons in parental relation and guardians
 55 to have information on their own child's educational materials;

A. 9113

13

1 (iv) access to and information about all public meetings, hearings of
2 the chancellor, the city board, the community superintendents, the

3 community [~~boards~~] district education councils, and the schools; and

4 (v) access to information regarding programs that allow students to
5 apply for admission where appropriate to schools outside a student's own
6 attendance zone.

7 31. Intervene in any district or school which is persistently failing
8 to achieve educational results and standards approved by the city board
9 or established by the state board of regents, or has failed to improve
10 its educational results and student achievement in accordance with such
11 standards or state or city board requirements, or in any school or
12 district in which there exists, in the chancellor's judgment, a state of
13 uncontrolled or unaddressed violence. The chancellor may, in addition to
14 exercising any other powers authorized by this article, require such

15 school principal, or district as the case may be, to prepare a correc-
16 tive action plan, with a timetable for implementation of steps accepta-
17 ble to the chancellor to reach improvement goals consistent with city
18 board standards and educational results. The chancellor may require the
19 school or district to alter or improve the corrective action plan, or
20 may directly modify the plan. The chancellor shall monitor implementa-
21 tion of the plan, and, if the school or district fails to implement it,
22 may supersede any inconsistent decision of the school principal, commu-
23 nity [~~board~~] district education council or community superintendent;
24 assume joint or direct control of the operation of the school or
25 district to implement the corrective action plan; or take any other
26 action authorized by this article. Any action of the chancellor to

27 supercede an inconsistent decision of the school principal, community
28 [~~board~~] district education council or community superintendent, or to
29 assume joint or direct control of the operation of the school or
30 district pursuant to this subdivision may be appealed to the city board
31 in accordance with section twenty-five hundred ninety-g of this article.

32 38. [~~to~~] To exercise all of the duties and responsibilities of the
33 employing board as set forth in section three thousand twenty-a of this
34 chapter with respect to any member of the teaching or supervisory staff
35 of schools under the jurisdiction of the community [~~boards~~] district
36 education councils. The chancellor shall exercise all such duties and
37 responsibilities for all community districts or may delegate the exer-

38 cise of all such duties and responsibilities to all of the community
39 superintendents of the city district.

40 39. (a) Prescribe regulations and by-laws requiring members of the
41 city board, the chancellor, and any other officer or employee in schools
42 and programs under the jurisdiction of the city board and the chancellor
43 to make annual written disclosure to the chancellor, of the following
44 information:

45 (i) the employment by the city school board or any community [~~board~~]
46 district education council of any person related within the third degree
47 of consanguinity or affinity to the person making disclosure, including
48 the employment of any such person for which a two-thirds vote was
49 required under paragraph e of subdivision four of section twenty-five
50 hundred ninety-j of this article, with a notation of the date such vote

51 was taken.

52 (ii) the source of any income, reimbursement, gift, or other form of
53 compensation for services rendered, together with a description of such
54 services.

55 (b) Regulations and by-laws authorized in this subdivision shall apply
56 with equal force and effect to community [~~board~~] council members, commu-

A. 9113

14

1 nity superintendents, and all other officers and employees in schools
2 and programs under the jurisdiction of the community [~~boards~~] district
3 education councils.

4 (c) The chancellor shall review, at least once annually, compliance
5 with the requirements of subdivisions five and six of section twenty-
6 five hundred ninety-e of this article and regulations or by-laws

7 prescribed in this subdivision. Any community [~~board~~] district education
8 council member, community superintendent, or other officer or employee
9 required to make disclosure, who fails to make such disclosure, shall be
10 notified in writing of his or her failure to do so and given thirty days
11 within which to comply.

12 (d) Willful failure to make full and timely disclosure shall consti-
13 tute cause for removal from office of any member of the city board or
14 for any other officer or employee disciplinary action and such other
15 penalty as may be provided by law.

16 (e) Disclosures made pursuant to the requirements of this subdivision
17 and any notification of failure to make disclosures shall be made avail-
18 able for public inspection during regular business hours on regular
19 business days.

20 40. (a) Prescribe regulations and by-laws requiring members of the
21 city board, the chancellor, and, for good cause shown, any other officer
22 or employee in schools and programs under the jurisdiction of the city
23 board and the chancellor, to submit to the chancellor, in the discretion
24 of the chancellor, financial reports for themselves and their spouses.

25 (b) The frequency and period of coverage, the designation of persons
26 to submit such reports by name, title, or income level, or by a combina-
27 tion thereof, and the content of such reports, including minimum dollar
28 amounts, shall be determined by the chancellor, and such reports may
29 include but not necessarily be limited to the following:

30 (i) amount and source of income for services rendered, together with a
31 description of such services;

32 (ii) amount and source of gifts, capital gains, reimbursements for
33 expenditures, and honoraria;

34 (iii) investments in securities and real property;

35 (iv) amount of debts and names of creditors;

36 (v) outstanding loans and other forms of indebtedness due to person
37 reporting or spouse, by name and amounts; and

38 (vi) trusts and other fiduciary relationships and their assets in
39 which a beneficial interest is held.

40 (c) Regulations and by-laws authorized by this subdivision shall apply
41 with equal force and effect to community [~~board~~] council members, commu-
42 nity superintendents, and all other officers and employees in schools
43 and programs under the jurisdiction of the community [~~boards~~] councils.

44 (d) Willful failure to file required financial reports shall consti-
45 tute cause for removal from office of any member of the city board or

46 for any other officer or employee disciplinary action and such other
47 penalty as may be provided by law.

48 44. To provide the proper book or books in which he or she shall cause
49 the class teachers under the direction and supervision of the principal
50 to enter the names, ages, and residences of the pupils attending the
51 school, the name of the parent or guardian of each pupil, and the days
52 on which the pupils shall have attended respectively, and the aggregate
53 attendance of each pupil during the year, and also the day upon which
54 the school shall have been visited by the superintendent of schools or
55 by an associate superintendent of schools or by an assistant superinten-
56 dent, or by members of the city board, or by members of the community

A. 9113

15

1 ~~[school board]~~ district education council, or by any of them, which
 2 entry shall be verified by such oath or affirmation of the principal as
 3 may be prescribed by the chancellor. Such books shall be preserved as
 4 the property of the chancellor and shall at all times be open to
 5 inspection by members of the city board, by members of the community
 6 ~~[school boards]~~ councils and by the superintendent of schools, or by any
 7 associate superintendent of schools, or by the assistant superinten-
 8 dents.

9 § 9. Subdivisions 1 and 2-a of section 2590-1 of the education law, as
 10 amended by chapter 720 of the laws of 1996, are amended to read as
 11 follows:

12 1. (a) If, in the judgment of the chancellor any community ~~[board]~~

13 district education council and/or superintendent fails to comply with
 14 any applicable provisions of law, by-laws, rules or regulations, stand-
 15 ards, directives and agreements, he or she may, in addition to or as an
 16 alternative to any other remedies authorized by this article, including
 17 subdivision thirty-one of section twenty-five hundred ninety-h of this
 18 article, issue an order requiring the community ~~[board]~~ district educa-
 19 tion council and/or superintendent to cease its improper conduct or to
 20 take required action and consistent with the provisions of this article
 21 and the educational and operational policies of the city board, may
 22 enforce that order by the use of appropriate means, including:

23 (i) supersession of the community ~~[board]~~ district education council

24 and/or superintendent by the chancellor or one or more trustees
 25 appointed by him who may be, notwithstanding any other provision of law,
 26 employees of the city board with respect to those powers and duties or
 27 decisions of such community ~~[board]~~ district education council and/or
 28 superintendent deemed necessary to ensure compliance with the order; and

29 (ii) suspension or removal of the community ~~[board]~~ district education
 30 council and/or superintendent or any member or members thereof.

31 (b) Prior to the enforcement of any order authorized under this
 32 section, the chancellor shall provide an opportunity for conciliation,
 33 except that the chancellor without conciliation may suspend or remove
 34 one or more members of a community ~~[board]~~ district education council or

35 a community superintendent where the conduct (i) is criminal in nature;
 36 (ii) poses an immediate danger to the safety or welfare of students or
 37 any school staff or employee, or (iii) in the judgment of the chancel-
 38 lor, is contrary to the best interest of the city school district.

39 2-a. A member of a community ~~[school district board]~~ district educa-
 40 tion council may be removed upon a finding that the member willfully,
 41 intentionally or knowingly interfered with or was involved in the
 42 hiring, appointment or assignment of employees other than as specif-
 43 ically authorized in this article. Such a finding, unless judicially
 44 overturned pursuant to article seventy-eight of the civil practice law
 45 and rules, shall permanently disqualify that member from employment,

46 contracting or membership with or on any community ~~[board]~~ district
 47 education council or the city board or any employment or contractual
 48 relationship, direct or indirect, with the city district, any community
 49 district, or any public school in such districts.

50 § 10. Subdivisions 1, 3, 4, 5, 6 and 8 of section 2590-m of the educa-
 51 tion law, subdivisions 1, 3, 4 and 5 as added by chapter 330 of the laws
 52 of 1969, paragraph b of subdivision 3 and subdivision 6 as amended by
 53 chapter 91 of the laws of 2002 and subdivision 8 as added by chapter 720
 54 of the laws of 1996, are amended to read as follows:

55 1. Public moneys apportioned to the city district by the state and all
 56 funds raised or collected by the authorities of such city for school

A. 9113

16

1 purposes or to be used by the city board or by any community board for
2 any purpose authorized by this chapter, or any other funds belonging to
3 the city district or a community district and received from any source
4 whatsoever for school purposes, shall be paid into the city treasury and
5 shall be credited to the city board or to the respective community
6 ~~boards~~ councils.

7 3. a. Funds credited to the city board shall be disbursed upon written
8 orders of the director of finance of the city signed by the chancellor
9 or such other officer or officers as the city board authorize. Funds
10 credited to a community ~~board~~ council shall be disbursed upon written
11 orders of the director of finance of the city signed by the community
12 superintendent and such other officer or officers as such board may
13 authorize.

14 b. If an auditor shall have been appointed by the chancellor or any
15 community ~~board~~ district education council, such orders shall be
16 signed by such auditor; provided, however, that the chancellor and any
17 such ~~board~~ district education council may in addition require the
18 signature of such other officer or officers as the chancellor may direct
19 or as such ~~board~~ district education council may by resolution direct.

20 c. Orders issued under this subdivision shall specify the purpose for
21 which they are drawn and the person to whom they are payable.

22 4. a. It shall be unlawful for the director of finance of the city to
23 permit any funds placed in his custody under the provisions of this
24 section to be used for any purpose other than that for which they are
25 lawfully authorized.

26 b. Such funds shall be paid out only on audit of the city board
27 through the chancellor or the community ~~board~~ council to which such
28 funds are credited, except as otherwise provided in subdivision five of
29 this section.

30 c. Payments from such funds shall be made only by checks signed by the
31 director of finance of the city and payable to the person entitled ther-
32 eto and countersigned by the comptroller of the city of New York.

33 5. Fixed salaries, principal of and interest on indebtedness and
34 amounts becoming due upon lawful contracts for periods exceeding one
35 year may be disbursed without prior audit by the city board or the
36 ~~board~~ council to which such funds are credited.

37 6. The chancellor, city board and each ~~board~~ district education
38 council referred to in this section shall make, in addition to such
39 classification of its funds as it desires for its own use and informa-
40 tion, such further classification of the funds credited to it and of the
41 disbursement thereof as the comptroller of the city of New York shall
42 require; provided that the classification of funds by community ~~boards~~
43 councils shall be in accordance with the altered schedules developed
44 pursuant to subdivision eight of section twenty-five hundred ninety-i of
45 this article. The chancellor, city board and community ~~boards~~ district
46 education councils shall furnish such data in relation to such funds and
47 their disbursements as the comptroller of the city of New York shall
48 require.

49 8. Notwithstanding any provision of law to the contrary, the powers
50 and duties conferred on a community ~~school board~~ district education
51 council by this section shall be exercised exclusively by the community
52 superintendent employed by such ~~board~~ council.

53 § 11. Subdivision 3 and paragraph c of subdivision 6 of section 2590-p
54 of the education law, subdivision 3 as added by chapter 738 of the laws
55 of 1988 and paragraph b of subdivision 3 and paragraph c of subdivision

A. 9113

17

1 6 as amended by chapter 91 of the laws of 2002, are amended to read as
2 follows:

3 3. a. No later than January sixth, nineteen hundred eighty-nine, the
4 chancellor shall, in conjunction with the submission of the educational
5 facilities master plan required by section twenty-five hundred ninety-o

6 of this chapter, submit the initial proposed five-year educational
7 facilities capital plan to each community [~~school board~~] district educa-
8 tion council, which shall conduct a public hearing on both the educa-
9 tional facilities master plan and the five-year educational facilities
10 capital plan and shall prepare and submit recommendations to the chan-
11 cellor on or before February twentieth, nineteen hundred eighty-nine
12 with respect to matters in the plans that involve that school district.
13 The chancellor shall consider the recommendations received from the
14 community [~~school boards~~] district education councils on both the
15 proposed educational facilities master plan and the proposed five-year
16 educational facilities capital plan, and, on or before March eighth,

17 nineteen hundred eighty-nine, shall submit a final proposed five-year
18 educational facilities capital plan to the city board for its approval.
19 On or before March twenty-second, nineteen hundred eighty-nine, the city
20 board shall approve the five-year educational facilities capital plan
21 submitted by the chancellor or such plan as is determined by the city
22 board, which shall take effect on July first, nineteen hundred eighty-
23 nine.

24 b. Commencing on November first, nineteen hundred ninety-three, and
25 every five years thereafter, the chancellor shall submit a proposed
26 five-year educational facilities capital plan to take effect on the
27 succeeding July first to each community [~~school board~~] district educa-
28 tion council, which shall conduct a public hearing and shall prepare and

29 submit recommendations to the chancellor on or before January first of
30 the ensuing year with respect to matters in the plan that involve that
31 school district. The chancellor shall consider the recommendations
32 received from the community [~~school boards~~] district education councils,
33 and, on or before February first of such year, shall submit a final
34 proposed five-year educational facilities capital plan to the city board
35 for its approval. On or before March first of such year, the city board
36 shall approve the five-year educational facilities capital plan submit-
37 ted by the chancellor.

38 c. The chancellor shall prepare preliminary scopes (i) for each
39 project contained within the program elements defined in paragraphs a
40 and b of subdivision two of this section and, where appropriate, para-

41 graph g of subdivision two of this section, (ii) for each major modern-
42 ization project contained in paragraph c of such subdivision two, and
43 (iii) for each new construction project contained in paragraph d of such
44 subdivision two, and shall transmit such preliminary scopes to the
45 affected community [~~school boards~~] district education councils. The
46 community [~~school board~~] district education council may hold hearings on
47 such scope; provided, however, that the community [~~school board~~]
48 district education council must submit any comments to the chancellor no
49 later than thirty days following the date of submission. The chancellor
50 shall consider the comments in preparing the scope that he or she will
51 submit to the director of management and budget of the city pursuant to

52 paragraph d of this subdivision.

53 § 12. Subdivisions 1, 4, 5, 6, paragraphs (b) and (c) of subdivision
54 7, and subdivisions 9, 10, 11, 14, 15, 17 and 18 of section 2590-q of
55 the education law, as amended by chapter 91 of the laws of 2002, are
56 amended to read as follows:

A. 9113

18

1 1. The chancellor shall annually advise the community [~~boards~~
2 district education councils] with respect to the form and content of the
3 budget requests and accompanying fiscal estimates required to be submit-
4 ted by the mayor of the city of New York for the next ensuing fiscal
5 year, together with such additional information as he or she may
6 require.

7 4. On such date as the mayor shall direct, the chancellor shall submit
8 to the mayor:

9 (a) estimates, as adopted by the city board, of the total sum of money
10 which it deems necessary for the operation of the city district (other
11 than functions to be financed from funds provided for in the capital
12 budget of the city) during the next fiscal year of the city, together
13 with the estimates submitted by the community [~~boards~~] district educa-
14 tion councils;

15 (b) estimates of the amount to be received as a result of the appor-
16 tionment of moneys payable from the state in such fiscal year; and

17 (c) estimates of the amount to be received for school system expendi-
18 tures by the city district in such fiscal year from sources other than
19 appropriations of city funds or appropriations or other provisions of
20 funds in the capital budget of the city or apportionment of moneys from
21 the state payable in such fiscal year.

22 5. All estimates submitted by the chancellor shall be prepared in the
23 manner prescribed by the New York city charter for submission of depart-
24 mental estimates for current expenses to the mayor and shall set forth
25 the total amounts proposed for programs or activities of the community
26 [~~boards~~] district education councils in units of appropriation separate
27 from those set forth for programs or activities operated by the city
28 board; provided, however, that nothing shall prevent the inclusion in
29 such estimates of a unit or units of appropriation to be allocated to
30 community [~~boards~~] district education councils pursuant to subdivision
31 ten of this section to finance innovative programs or activities by such
32 community [~~boards~~] district education councils.

33 6. In acting on the proposed units of appropriation for programs or
34 activities of community [~~boards~~] district education councils, the city
35 council of the city of New York may, subject to the veto of the mayor,
36 increase or decrease the total amount of each such unit of appropriation
37 but, notwithstanding any provision of the New York city charter or any
38 other law to the contrary, it shall not have power to add any other unit
39 of appropriation for one or more community [~~boards~~] district education
40 councils.

41 (b) Not later than thirty days after the amount of such funds becomes
42 determined by adoption of the budget pursuant to subdivision six of this
43 section, by allocation pursuant to subdivisions ten, eleven, fourteen,
44 and fifteen of this section, or otherwise, the chancellor shall transmit

45 to each community [~~board~~] district education council a statement enumer-
46 ating the federal, state, city, and private funds which have been allo-
47 cated thereunder to such community [~~board~~] district education council
48 for its programs.

49 (c) At the same time, the chancellor shall transmit to the community
50 [~~boards~~] district education councils a statement of the allocation of
51 the balance of such funds to the several programs administered by him or
52 her and the city board including the distinct amounts assigned to each
53 category of schools and programs set forth in section twenty-five
54 hundred ninety-i of this article and the amount allocated for the opera-
55 tion of the city board, his or her office, and the other administrative
56 bureaus and divisions thereof.

A. 9113

19

1 9. Special estimates to meet extraordinary expenses of emergencies
2 which may arise in the course of a fiscal year may be submitted to the
3 chancellor by any community [~~board~~] district education council and,
4 pursuant to subdivision six of section twenty-five hundred seventy-six
5 of this title, the chancellor may, in his or her discretion, submit such
6 special estimates to the mayor of the city of New York. The chancellor
7 may also submit special estimates to the mayor in connection with the
8 schools and programs under his or her jurisdiction.

9 10. Notwithstanding any provisions of law to the contrary, any moneys
10 appropriated to or authorized for expenditure by the city board includ-
11 ing moneys so appropriated to finance innovative programs or activities

12 by community [~~boards~~] district education councils (but other than moneys
13 so appropriated for the exercise of powers or duties reserved to the
14 city board) may be allocated by the chancellor to any community [~~board~~]
15 district education council. Allocations made pursuant to this subdivi-
16 sion shall be based on the needs of the recipient community [~~boards~~]
17 district education councils, considered in conjunction with the needs of
18 the schools and programs under the jurisdiction of the city board, in
19 the case of moneys appropriated for innovative programs or activities,
20 the relative merit of the programs or activities proposed by the respec-
21 tive community [~~boards~~] district education councils.

22 11. The chancellor shall perform all functions in connection with

23 article seventy-three of this chapter; provided that the chancellor
24 shall allocate to the community [~~boards~~] district education councils the
25 state funds apportioned to the city district pursuant to such article
26 seventy-three, less the amount of such funds necessary to enable the
27 chancellor to carry out his or her responsibilities, on the basis of an
28 objective formula established by the chancellor and approved by the city
29 board annually, after consultation with the community [~~boards~~] district
30 education councils and the mayor, which formula shall reflect the rela-
31 tive educational needs of the community districts to the maximum extent
32 feasible.

33 14. With respect to special, federal, state, and private funds, each
34 community [~~board~~] district education council may:

35 (a) contract for and receive funds to be transmitted to the city board
36 and disbursed through the chancellor. No special funds may be used as a
37 means of bringing about the elimination of existing personnel lines,
38 titles, or employees. Community [~~boards~~] district education councils may
39 use budget funds allocated and resources obtained within the scope of
40 existing law and contractual obligations to design programs of educa-
41 tional excellence tailored to the needs and peculiar characteristics of
42 the district;

43 (b) enter into contracts necessary or convenient to the discharge of
44 the powers and duties with the city, state, and federal governments,
45 private foundations, agencies and individuals, the city board, and other
46 community [~~boards~~] district education councils, subject to the approval
47 of the chancellor;

48 (c) in the case of federal or state funds not allocated to the city
49 district on a formula basis, to apply to the funding agency, as a local
50 educational agency, and to accept any funds granted or apportioned in
51 this connection for its use and account; provided, however, that as to
52 federal funds available to areas affected by federal activities pursuant
53 to public law eight hundred seventy-four, community [~~boards~~] councils
54 shall not be considered local educational agencies and shall have no
55 power to apply directly to the funding agency, but such funds shall be
56 reallocated to community [~~boards~~] district education councils by the

A. 9113

20

1 chancellor in accordance with a formula established by the chancellor
2 and approved by the city board as provided in subdivision ten of this
3 section; and
4 (d) in the case of special funds allocated to the city district on a
5 formula basis, to submit proposals to the chancellor for a review as to
6 form only and prompt transmittal to the funding agency; provided, howev-
7 er, that in the case of such special funds community [~~boards~~] district
8 education councils shall not be considered local educational agencies;
9 and provided further that the total amount of such proposals submitted
10 by any community [~~board~~] district education council shall not exceed the
11 amount of an apportionment made by the chancellor on the basis of a
12 formula established by the chancellor and approved by the city board,
13 after considering the recommendation of the chancellor and after consul-
14 tation with community [~~boards~~] district education councils and the
15 mayor, which formula reflects the same educational and economic factors
16 as the formula for apportionment of such special funds to the city
17 district; and provided further that each community [~~board~~] district
18 education council shall consult fully with non-public school authorities
19 on a continuing basis with respect to any of such special funds applica-
20 ble to non-public school programs and students subject to the power and
21 duty of the city board through the chancellor to ensure that applicable
22 provisions of state and federal law and regulations with respect to
23 programs for students in attendance at non-public schools throughout the
24 city district shall be carried out.

25 15. With respect to special, federal, state, and private funds, the
26 chancellor shall provide community [~~boards~~] district education councils
27 with information about the availability of such funds and furnish tech-
28 nical assistance with respect to the preparation of proposals, record
29 keeping, and the administration of such programs.

30 17. (a) Each community superintendent shall prepare semi-annual
31 reports which shall be due by December fifteenth and April fifteenth of
32 each year. Each report shall include but not be limited to an accounting
33 of all funds received and expended by the subject community [~~board~~]
34 district education council from all sources, including appropriations
35 for programs and activities of the [~~school-board~~] district education
36 council and receipts from external sources.

37 (b) In addition, a final year-end report shall be due on August
38 fifteenth and shall include an accounting of all funds received and
39 expended by the subject community [~~board~~] district education council
40 from all sources, including appropriations for programs and activities
41 of the [~~school-board~~] district education council.

42 (c) Copies of reports outlined in paragraphs (a) and (b) of this
43 subdivision shall be given to the chancellor and the subject community
44 [~~board~~] district education council and shall be available to the public.

45 18. Notwithstanding any provision of law to the contrary, the powers
46 and duties conferred on a community [~~school-board~~] district education
47 council by this section shall be exercised exclusively by the community
48 superintendent employed by such [~~board~~] council.

49 § 13. Subdivision 3 of section 2801 of the education law, as added by
50 chapter 181 of the laws of 2000, is amended to read as follows:

51 3. The district code of conduct shall be developed in collaboration
52 with student, teacher, administrator, and parent organizations, school
53 safety personnel and other school personnel and shall be approved by the
54 board of education, or other governing body, or by the chancellor of the
55 city school district in the case of the city school district of the city
56 of New York. In the city school district of the city of New York, each

A. 9113

21

1 community [~~school district board~~] district education council shall be
2 authorized to adopt and implement additional policies, which are
3 consistent with the city district's district-wide code of conduct, to
4 reflect the individual needs of each community school district provided
5 that such additional policies shall require the approval of the chancel-
6 lor.

7 § 14. Existing rules and regulations continued. Any rule or regulation
8 adopted by any community school board prior to the effective date of
9 this act which is in force and effect on the date this act shall have
10 become a law, and which pertains to any matter within the jurisdiction
11 of a community district council as the successor of such community
12 school board, shall be deemed to have been adopted by the respective

13 community district council as constituted pursuant to the provisions of
14 this act, and such rule or regulation shall continue in full force and
15 effect until it is altered, modified, amended or repealed in the manner
16 as provided by law.

17 § 15. Section 34 of chapter 91 of the laws of 2002, amending the
18 education law and other laws relating to the reorganization of the New
19 York city school construction authority, board of education and communi-
20 ty boards, is amended to read as follows:

21 § 34. This act shall take effect July 1, 2002; provided, that sections
22 one through twenty, twenty-four, and twenty-six through thirty of this
23 act shall expire and be deemed repealed June 30, 2009; provided,
24 further, that notwithstanding any provision of article 5 of the general
25 construction law, on June 30, 2009 the provisions of subdivisions 3, 5,

26 and 8, paragraph b of subdivision 13, subdivision 14, paragraphs b, d,
27 and e of subdivision 15, and subdivisions 17 and 21 of section 2554 of
28 the education law as repealed by section three of this act, subdivision
29 1 of section 2590-b of the education law as repealed by section six of
30 this act, paragraph (a) of subdivision 2 of section 2590-b of the educa-
31 tion law as repealed by section seven of this act, section 2590-c of the
32 education law as repealed by section eight of this act, paragraph c of
33 subdivision 2 of section 2590-d of the education law as repealed by
34 section twenty-six of this act, subdivision 1 of section 2590-e of the
35 education law as repealed by section twenty-seven of this act, subdivi-
36 sion 28 of section 2590-h of the education law as repealed by section
37 twenty-eight of this act, subdivision 30 of section 2590-h of the educa-

38 tion law as repealed by section twenty-nine of this act, subdivision
39 30-a of section 2590-h of the education law as repealed by section thir-
40 ty of this act shall be revived and be read as such provisions existed
41 in law on the date immediately preceding the effective date of this act;
42 provided, however, that sections seven and eight of this act shall take
43 effect on [~~June~~] November 30, 2003; provided further that the amendments
44 to subdivision 25 of section 2554 of the education law made by section
45 two of this act shall be subject to the expiration and reversion of such
46 subdivision pursuant to section 12 of chapter 147 of the laws of 2001,
47 as amended, when upon such date the provisions of section four of this
48 act shall take effect.

49 § 16. Severability clause. If any clause, sentence, paragraph, subdivi-

50 sion, section or part of this act shall be adjudged by any court of
51 competent jurisdiction to be invalid, such judgment shall not affect,
52 impair, or invalidate the remainder thereof, but shall be confined in
53 its operation to the clause, sentence, paragraph, subdivision, section
54 or part of this act directly involved in the controversy in which the
55 judgment shall have been rendered.

A. 9113

22

1 § 17. This act shall take effect immediately; provided, however, that
2 the provisions of this act shall be deemed repealed on the same date as
3 sections 1 through 20, 24 and 26 through 30 of chapter 91 of the laws of
4 2002.

Exhibit F

Mem of Assembly Rules Comm, Bill Jacket, L 2009, ch 345 and NY Assembly
Memorandum in Support of A 8903, Legislation submitted in accordance with
Assembly Rule III § 1 (f)

JP

CHAPTER 345

LAWS OF 20 09

SENATE BILL _____

ASSEMBLY BILL 8903-A

STATE OF NEW YORK

8903--A

2009-2010 Regular Sessions

IN ASSEMBLY

June 14, 2009

Introduced by M. of A. SILVER, NOLAN, FARRELL, TOWNS, V. LOPEZ, PHEFFER, BENEDEPITO, HYER-SPENCER -- Multi-Sponsored by -- M. of A. BENJAMIN, BING, CARROZZA, CLARK, COOK, CYMBROWITZ, ESPAILLAT, GIANARIS, KELLNER, LANCMAN, MARKEY, MAYERSOHN, MENG, ORTIZ, PERALTA, P. RIVERA -- read once and referred to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to the New York city board of education, chancellor, community councils and community superintendents; to amend chapter 738 of the laws of 1988, amending the administrative code of the city of New York, the public authorities law and other laws relating to the New York city school construction authority, in relation to extending certain provisions of such chapter relating to certain contracts of the authority; to amend the public authorities law, in relation to extending certain provisions; to amend chapter 91 of the laws of 2002 amending the education law and other laws relating to the reorganization of the New York city school construction authority, board of education and community boards, in relation to extending certain provisions of such chapter; and providing for the repeal of certain provisions of the education law relating thereto

S 5887 Padavan

DATE RECEIVED BY GOVERNOR:
AUG 10 2009

ACTION MUST BE TAKEN BY:
AUG 21 2009

DATE GOVERNOR'S ACTION TAKEN:
AUG 11 2009

000001

SENATE VOTE

47 Y 8 N

HOME RULE MESSAGE

___ Y ___ N

DATE

8/6/09

ASSEMBLY VOTE

129 Y 8 N

DATE

6/17/09

000002

A8903-A Silver (MS) Same as S 5887 PADAVAN, S 50003 RULES, S 60403 RULES, S 65003 RULES, S 65109 RULES, S 65113 RULES, S 65115 RULES, S 65117 RULES, S 65120 RULES

08/06/09 A8903-A Senate Vote
06/17/09 A8903-A Assembly Vote

Aye: 47 Nay: 8
Yes: 129 No : 18

Go to Top of Page

08/06/09 A8903-A Senate Vote Aye: 47 Nay: 8

Nay Adams	Aye Addabbo	Aye Alesi	Aye Aubertine
Aye Bonacic	Aye Breslin	Exc DeFrancisco	Nay Diaz
Aye Dilan	Nay Duane	Aye Espada	Aye Farley
Aye Flanagan	Aye Foley	Aye Fuschillo	Aye Golden
Aye Griffo	Exc Hannon	Aye Hassell-Thompson	Nay Huntley
Aye Johnson C	Aye Johnson O	Aye Klein	Aye Krueger
Nay Kruger	Aye Lanza	Aye Larkin	Exc LaValle
Aye Leibell	Exc Libous	Exc Little	Aye Marcellino
Aye Maziarz	Aye McDonald	Aye Monserrate	Nay Montgomery
Aye Morahan	Aye Nozzolio	Aye Onorato	Aye Oppenheimer
Aye Padavan	Nay Parker	Nay Perkins	Aye Ranzenhofer
Aye Robach	Aye Saland	Aye Sampson	Aye Savino
Aye Schneiderman	Aye Serrano	Aye Seward	Aye Skelos
Aye Smith	Aye Squadron	Abs Stachowski	Aye Stavisky
Aye Stewart-Cousins	Aye Thompson	Aye Valesky	Aye Volker
Exc Winner	Aye Young		

Go to Top of Page

06/17/09 A8903-A Assembly Vote Yes: 129 No : 18

No Abbate	Yes Alessi	Yes Alfano	Yes Amedore
Yes Arroyo	No Aubry	Yes Bacalles	Yes Ball
Yes Barclay	Yes Barra	ER Barron	Yes Benedetto
Yes Benjamin	Yes Bing	ER Boyland	Yes Boyle
Yes Bradley	No Brennan	Yes Brodsky	Yes Brook-Krasny
Yes Burling	Yes Butler	Yes Cahill	Yes Calhoun
Yes Camara	Yes Canestrari	Yes Carrozza	No Castro
Yes Christensen	Yes Clark	No Colton	Yes Conte
Yes Cook	Yes Corwin	No Crespo	Yes Crouch
Yes Cusick	Yes Cymbrowitz	Yes DelMonte	Yes DenDekker
Yes Destito	No Dinowitz	Yes Duprey	Yes Eddington
Yes Englebright	Yes Errigo	Yes Espaillat	Yes Farrell
Yes Fields	Yes Finch	Yes Fitzpatrick	Yes Gabryszak
Yes Galef	Yes Gantt	Yes Gianaris	No Gibson
Yes Giglio	No Glick	Yes Gordon	Yes Gottfried
Yes Gunther A	Yes Hawley	Yes Hayes	No Heastie
Yes Hevesi	Yes Hikind	Yes Hooper	Yes Hoyt
Yes Hyer-Spencer	Yes Jacobs	Yes Jaffee	No Jeffries
Yes John	Yes Jordan	Yes Kavanagh	Yes Kellner
Yes Kolb	Yes Koon	Yes Lancman	Yes Latimer
Yes Lavine	Yes Lentol	Yes Lifton	Yes Lopez P
Yes Lopez V	Yes Lupardo	Yes Magee	Yes Magnarelli

000003

No Maisel	Yes Markey	Yes Mayersohn	Yes McDonough
Yes McEneny	Yes McKevitt	Yes Meng	Yes Miller
Yes Millman	Yes Molinaro	Yes Morelle	Yes Nolan
Yes Oaks	No O'Donnell	Yes O'Mara	Yes Ortiz
Yes Parment	Yes Paulin	Yes Peoples	Yes Peralta
No Perry	Yes Pheffer	Yes Powell	Yes Pretlow
Yes Quinn	Yes Rabbitt	Yes Raia	Yes Ramos
Yes Reilich	Yes Reilly	No Rivera J	No Rivera N
Yes Rivera P	No Robinson	Yes Rosenthal	ER Russell
Yes Saladino	Sayward	Yes Scarborough	Yes Schimel
Yes Schimminger	Yes Schroeder	Yes Scozzafava	Yes Seminerio
Yes Skartados	Yes Spano	Yes Stirpe	Yes Sweeney
Yes Tedisco	Yes Thiele	Yes Titone	Yes Titus
Yes Tobacco	Yes Towns	Yes Townsend	Yes Walker
Yes Weinstein	Yes Weisenberg	No Weprin	Yes Wright
Yes Zebrowski K	Yes Mr. Speaker		

A8903A Memo Text Not Found

000004



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

CATHERINE NOLAN
37th Assembly District
Queens County

CHAIRWOMAN
EDUCATION COMMITTEE

COMMITTEES
Rules
Veterans
Ways and Means
Corporations, Authorities, and Commissions

August 6, 2009

Honorable David Paterson
New York State Capitol
Albany, New York

Dear Governor Paterson:

A.8903-A (Silver) will soon be before you for consideration. This bill amends the education law in relation to governance of the New York City school district. The legislation gives parents greater and more meaningful participation in their children's education - at their children's local schools, the community school districts and the board of education. In addition, it preserves accountability, promotes transparency and serves the best interests of our children and their schools. As Chair of the Assembly Committee on Education, I respectfully request that you to sign A.8903-A into law.

School governance of New York City has long been and continues to be a priority of the Assembly Committee on Education. Earlier this year the committee held five hearings - one in each borough of the city. In addition to the Deputy Mayor, the Chancellor and senior administrators of the city school district and school construction authority, hundreds of people participated. Parents, teachers, school administrators, students, union representatives, crossing guards, after-school program providers and other concerned citizens came to the hearings. They shared with Members of the Assembly - both Democrat and Republican - their hopes and concerns, their schools' success and problems and their recommendations for the future of New York City schools. Their input is reflected throughout this bill.

Under A.8903-A the mayor continues to manage the school system in New York City. The mayor does so, however, subject to new provisions about parental involvement, school and community teamwork, public process and independent oversight.

Parents must be involved. A.8903-A makes sure that parents are at the table where decisions are being made about their children's education. For example, the mayor must appoint parents to the city board of education. Parents will also serve on the newly created citywide councils on high schools and English Language Learners. And, parents of students with individualized education plans will serve on the citywide council on special education. The bill also includes parents, as

□ DISTRICT OFFICE — 61-08 Linden Street, Ridgewood, New York 11385 • 718-456-9492 • FAX: 718-417-4982
□ DISTRICT OFFICE — 41-02 Queens Boulevard, Suite 2B, Sunnyside, New York 11104 • 718-784-3194 • FAX: 718-472-0648
□ ALBANY OFFICE — Room B36, Legislative Office Building, Albany, New York 12248 • 518-455-4851 • FAX: 518-455-3847
E-mail: nolanc@assembly.state.ny.us

000005

members of the community district education councils, in the selection of the community district superintendents and public hearings about any school closing.

Decisions about education must be done through teamwork. A.8903-A strengthens the role of the school-based management teams and re-instates superintendents in the community district. These superintendents in turn will support the parents. For example, the bill requires community district superintendents to establish offices in their districts to help parents access information, resolve problems at their children's schools and learn about school management. With more clearly defined duties and lines of communication, all stakeholders will be able to work better together to help resolve problems and plan better futures at the schools.

Decisions about education in New York City must also be public. Public process is the very basis of community participation in governance. A.8903-A therefore clearly sets out a comprehensive and detailed public process for decisions about education. Pursuant to the procedural steps spelled out in the legislation, the board of education must give timely notice about its meetings including the agenda, hold these meetings in each borough of the city and provide the public an opportunity to comment on the issues pending before the board. The board of education must vote at a public meeting on: chancellor's regulations, school closings or significant changes in school utilization, capital plans, budget and fiscal estimates, allocation of revenues and a new city-wide procurement policy. The board must also vote on all franchises, concessions and certain contracts. Parents and members of the community will have an opportunity to be heard on issues that are so often personally important to them and their children. In addition, community district education councils and the school-based management teams must hold a hearing about school closings. And, meetings for parents and teachers at the schools will be open to the community.

The bill also expands and improves independent oversight of the city school district. The New York City Comptroller is authorized to conduct operational, programmatic and financial audits of the city school district "to the same extent that such comptroller has such authority for" New York City agencies. The New York City Independent Budget Office too is given the authority, and the resources, to analyze and issue reports about financial management of the school system and education matters including graduation rates, enrollment projects, class sizes and teacher to student ratios, student assessment data and services delivered to students with disabilities and English Language Learners.

A.8093-A sunsets on June 30, 2015 when we will again review school governance in New York City. This sunset continues state government oversight of the city school district's implementation of school governance. As we try to do our very best for our children and their education, vigilant oversight is critical.

A.8903-A brings clarity, openness and inclusiveness to school governance in New York City. I therefore urge you to sign the bill into law.

Sincerely,



Catherine Nolan



STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001

DAVID A. PATERSON
GOVERNOR

LORRAINE A. CORTÉS-VÁZQUEZ
SECRETARY OF STATE

MEMORANDUM

To: Honorable Peter J. Kiernan, Esq.
Counsel to the Governor

From: Matthew W. Tebo, Esq.
Legislative Counsel

Date: August 11, 2009

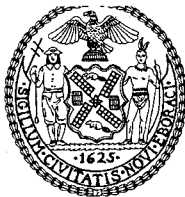
Subject: A.8903-A (Speaker Silver)
Recommendation: No comment

The Department of State has no comment on the above referenced bill.

If you have any questions or comments regarding our position on the bill, or if we can otherwise assist you, please feel free to contact me at (518) 474-6740.

MWT/mel

000007



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N. Y. 10007

August 11, 2009

A.8903-A – by M. of A. Silver

AN ACT to amend the education law, in relation to the New York city board of education, chancellor, community councils and community superintendents; to amend chapter 738 of the laws of 1988, amending the administrative code of the city of New York, the public authorities law and other laws relating to the New York city school construction authority, in relation to extending certain provisions of such chapter relating to certain contracts of the authority...the education law relating thereto

APPROVAL RECOMMENDED

Hon. David Paterson
Governor of the State of New York
Executive Chamber
Albany, New York 12224

Dear Governor Paterson:

The above-referenced bill is now before you for executive action.

This bill extends Mayoral control over the New York City schools until June 30, 2015. The membership of the Board of Education (Panel on Education Policy) is modified so that the Chancellor will become a non-voting ex-officio member of the Board, and the Board will elect its own chairperson from among voting members. The Mayor continues to have eight appointees who are voting members. A requirement is added that two of the Mayor's eight voting appointees be parents of students attending public schools. Powers of the Board are expanded to require its approval with regard to regulations proposed by the Chancellor, procurement policy and numerous contract awards and school closures or significant changes in school utilization. A new procedure for public notice and comment prior to Board actions is also added.

The Education Law is amended to codify the Citywide Council on High Schools and create a new Citywide Council for English Language Learners. Additionally, it would now allow officers of PTAs to seek positions on these councils, as well as the community district education council and the Citywide Council on Special Education, as long as they do not cast votes in the selection process.

000008

Education Law 2590-f, concerning district superintendents, is amended to specify that the superintendents have specific powers including: explicitly states that the superintendent supervises principals; provides for the superintendent's approval of school-based budgets to include certification of alignment with the corresponding comprehensive educational plan; requires the superintendents to have staff to address parents' concerns; and requires superintendents to hold at least two public forums in their district each school year. The bill also specifies that the Chancellor assign tasks such that superintendents work predominantly within their own districts.

A new provision is added to authorize the Comptroller of the City of New York to conduct program audits of the City school district to the same extent as the Comptroller has such authority for agencies of the City of New York (as the Comptroller has already been doing pursuant to an MOU with the City Department of Education). A new Section is also added requiring the New York City Independent Budget Office (IBO) to analyze and issue public reports regarding a number of financial and educational matters, and authorizing the IBO to secure information needed to prepare such reports. The Public Authorities Law is also amended to extend the School Construction Authority's exemption from General Municipal Law §101 (Wicks Law) to June 30, 2014.

Before the landmark Mayoral control legislation was enacted in 2002, meaningful educational progress in New York City was stymied by a governance structure in which there were frequent political battles and plenty of finger pointing but no real accountability for results. In the past, the Mayor had very limited ability to impact school reform. The lack of real responsibility for education management also meant limited opportunities for public engagement on education issues on a Citywide basis.

Giving the Mayor the authority to appoint the Chancellor and the majority of the Board of Education, with these officials serving at the Mayor's pleasure, has made the Mayor responsible for establishing a vision for school reform, and for implementing that vision and achieving results. Mayoral control has also brought stability to the New York City school system, after many years in which Chancellors served brief terms that were at times dominated by fights with the Mayor and/or the Board of Education. Under Mayoral control, New York City has ended social promotion, developed a fairer system for funding schools, given principals more autonomy to run their schools, and opened many new smaller schools throughout the City. The results have been a better educational experience for New York City school children. New York City children have made substantial progress on State tests since the beginning of Mayoral control; fewer students are dropping out and the achievement gap is narrowing. Renewing Mayoral control will make possible continued progress and better educational opportunities for the City's children.

The extension of the Wicks Law exemption for the School Construction Authority until 2014 is critical to enable SCA to seek contracts that will maximize the use of limited capital dollars in the construction of schools in New York City.

Accordingly, it is urged that this bill be approved.

Very truly yours,

MICHAEL R. BLOOMBERG, Mayor

By: Michelle L. Goldstein
Director

STATE OF NEW YORK

8903--A

2009-2010 Regular Sessions

IN ASSEMBLY

June 14, 2009

Introduced by M. of A. SILVER, NOLAN, FARRELL, TOWNS, V. LOPEZ, PHEFFER, BENEDETTO, HYER-SPENCER -- Multi-Sponsored by -- M. of A. BENJAMIN, BING, CARROZZA, CLARK, COOK, CYMBROWITZ, ESPAILLAT, GIANARIS, KELLNER, LANCMAN, MARKEY, MAYERSOHN, MENG, ORTIZ, PERALTA, P. RIVERA -- read once and referred to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to the New York city board of education, chancellor, community councils and community superintendents; to amend chapter 738 of the laws of 1988, amending the administrative code of the city of New York, the public authorities law and other laws relating to the New York city school construction authority, in relation to extending certain provisions of such chapter relating to certain contracts of the authority; to amend the public authorities law, in relation to extending certain provisions; to amend chapter 91 of the laws of 2002 amending the education law and other laws relating to the reorganization of the New York city school construction authority, board of education and community boards, in relation to extending certain provisions of such chapter; and providing for the repeal of certain provisions of the education law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Section 2590-b of the education law, as added by chapter
2 330 of the laws of 1969, the section heading and subdivision 2 as
3 amended and subdivision 4 as added by chapter 123 of the laws of 2003,
4 subdivision 1 as added by chapter 91 of the laws of 2002 and subdivision
5 3 as amended by chapter 727 of the laws of 1994, is amended to read as
6 follows:
7 § 2590-b. Continuation of city board and establishment of community
8 districts; establishment of the city-wide [~~council on special education~~]

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD14366-07-9

A. 8903--A

2

1 councils on special education, English language learners, and high
2 schools. 1. (a) The board of education of the city school district of
3 the city of New York is hereby continued. Such board of education shall
4 consist of thirteen appointed members: one member to be appointed by
5 each borough president of the city of New York; ~~[seven]~~ and eight
6 members to be appointed by the mayor of the city of New York~~[and~~
7 ~~the]~~. The chancellor shall serve as an ex-officio non-voting member of
8 the city board. ~~[The chancellor shall serve as the chairperson of the~~
9 ~~city board.]~~ The city board shall elect its own chairperson from among
10 its voting members. All ~~[twelve]~~ thirteen appointed members shall serve
11 at the pleasure of the appointing authority and shall not be employed in
12 any capacity by the city of New York, or a subdivision thereof, or the
13 city board. No appointed member of the city board shall also be a
14 member, officer, or employee of any public corporation, authority, or
15 commission where the mayor of the city of New York has a majority of the
16 appointments. Each borough president's appointee shall be a resident of
17 the borough for which the borough president appointing him or her was
18 elected and shall be the parent of a child attending a public school
19 within the city school district of the city of New York. Each mayoral
20 appointee shall be a resident of the city and two shall be parents of a
21 child attending a public school within the city district. All parent
22 members shall be eligible to continue to serve on the city board for two
23 years following the conclusion of their child's attendance at a public
24 school within the city district. Any vacancy shall be filled by appoint-
25 ment by the appropriate appointing authority within ninety days of such
26 vacancy. Notwithstanding any provision of local law, the members of the
27 board shall not have staff, offices, or vehicles assigned to them or
28 receive compensation for their services, but shall be reimbursed for the
29 actual and necessary expenses incurred by them in the performance of
30 their duties.

31 (b) The city board shall hold at least [twelve] one regular public
32 [meetings] meeting per month. At least one regular public meeting shall
33 be held in each borough of the city of New York per year; any additional
34 meetings may be called at the request of the [chancellor] chairperson.
35 The city board shall consider appropriate public accommodations when
36 selecting a venue so as to maximize participation by parents and the
37 community.

38 (c) (i) Notice of the time, place and agenda for all city board regu-
39 lar public meetings shall be publicly provided, including via the city
40 board's official internet web site, and specifically circulated to all
41 community superintendents, community district education councils, commu-
42 nity boards, and school based management teams, at least ten business
43 days in advance of such meeting.

44 (ii) A city board regular public meeting agenda shall be comprised of
45 a list and brief description of the subject matter being considered,
46 identification of all items subject to a city board vote, and the name,
47 office, address, email address and telephone number of a city district
48 representative, knowledgeable on the agenda, from whom any information
49 may be obtained and to whom written comments may be submitted concerning
50 items on such agenda.

51 (d) The chairperson of the city board shall ensure that at every regu-
52 lar public meeting there is a sufficient period of time to allow for
53 public comment on any topic on the agenda prior to any city board vote.

54 (e) Minutes of all city board regular public meetings shall be made
55 publicly available, including via the city board's official internet

A. 8903--A

3

1 website, in a timely manner but no later than the subsequent regular
2 city board meeting.

3 2. (a) There shall be a community council for each community district
4 created pursuant to this article.

5 (b) The city board shall define, adjust, alter, maintain and adopt the
6 boundaries of the community districts pursuant to this chapter no later
7 than February first, nineteen hundred ninety-five. There shall be no
8 less than thirty nor more than thirty-seven community districts.

9 (c) The city board may readjust or alter the districts in such plan
10 only once in every ten years, commencing with the year two thousand
11 four. The city board in conjunction with the chancellor and the communi-
12 ty council representatives, shall prepare and make public a plan to
13 ensure the smooth transition of pupils and school personnel, creation of
14 new boards, and allocation of school facilities and resources among the
15 districts established pursuant to paragraph (b) of this subdivision.
16 Prior to the adoption of the transition plan, the city board shall hold
17 one or more public hearings in each borough. The city board shall make
18 the transition plan available not less than three weeks before the first
19 such public hearing. Upon receipt of comments, the city board, in
20 conjunction with the chancellor and the community council represen-
21 tatives, shall prepare a revised transition plan, if necessary and make
22 such plan available to the public for comment.

23 3. (a) The redistricting advisory study group established prior to the
24 effective date of this paragraph for the purpose of study and making
25 recommendations on community school district boundaries, is hereby
26 continued and shall perform the duties required herein.

27 (b) The study group shall prepare a report containing recommendations
28 for dividing the city into no more than thirty-seven community
29 districts.

30 (c) In preparation of its recommendations for dividing the city into
31 community districts, the study group shall ensure that the recommenda-
32 tions provide for the most effective delivery of educational services
33 and shall be guided by the following criteria:

34 (1) each community district shall: (i) be a suitable size for effi-
35 cient policy-making and economic management; (ii) contain a reasonable
36 number of pupils; (iii) be compact and contiguous, contained within
37 county lines, and to the maximum extent possible, keep intact communi-
38 ties and neighborhoods; and (iv) bear a rational relationship to
39 geographic areas for which the city of New York plans and provides
40 services;

41 (2) to the extent possible, keep existing lines intact;

42 (3) the common and special education needs of the communities and
43 school children involved;

44 (4) effective utilization of existing and planned school facilities;

45 (5) minimum disruption of existing and planned elementary school-jun-
46 ior high/middle school-high school feeder patterns;

47 (6) transportation facilities;

48 (7) additional administrative costs involved in the creation of such
49 new districts; and

50 (8) ensure fair and effective representation of racial and language
51 groups pursuant to the Voting Rights Act of 1965, as amended;

52 (9) notwithstanding the provisions of this subparagraph and subpara-
53 graphs one through eight of this paragraph: (i) the residents of the
54 county of New York in school district ten as it existed prior to the
55 implementation of this paragraph shall continue to remain in school
56 district ten as such district is comprised; (ii) the boundaries of

A. 8903--A

4

1 community district thirty-one shall continue to remain as they are
2 currently comprised; and (iii) no county shall have fewer community
3 school districts than in existence on the effective date of this para-
4 graph.

5 (d) The study group shall hold one or more public hearings in each
6 borough before final adoption of its recommendations. The study group
7 shall make its recommendations available to the public for inspection
8 and comment not less than one month before the first such public hear-
9 ing. Following its consideration of the comments received on the recom-
10 mendations, the study group shall prepare a report containing its final
11 recommendations. The study group shall submit its report to the city
12 board and make such report available to the public for inspection no
13 later than November first, nineteen hundred ninety-four.

14 (e) The city board of education shall hold public hearings in each
15 borough on the recommendations submitted by the study group and may
16 adopt, revise or reject in whole or in part such recommendations, or,
17 may request the study group to submit adjusted recommendations. The
18 final recommendations shall be adopted by the city board of education no
19 later than February first, nineteen hundred ninety-five to take effect
20 July first, nineteen hundred ninety-six, provided that such revised
21 boundaries adopted by the city board pursuant to this chapter shall be
22 used for purposes of community school board elections to be held on the
23 first Tuesday in May, nineteen hundred ninety-six.

24 (f) Provided, however, that the city board may make minor adjustments,
25 (i) to correct errors that may occur in the district lines adopted by
26 the city board, or (ii) upon showing a change in circumstances. Any such
27 limited revisions to community school district lines may occur between
28 the effective date of this paragraph and the city board readjustment
29 scheduled in the year two thousand four.

30 (g) No public hearings required pursuant to this subdivision shall be
31 held during the months of July and August. All public hearings shall be
32 held at a time and place designated to maximize community and parent
33 participation. Notice of all such public hearings shall be provided in a
34 timely manner to all print and electronic media and shall be widely
35 distributed to all interested parties, so as to maximize participation
36 by parents and the community. In addition such notice shall be posted in
37 each school building and district office.

38 4. a. There shall be a city-wide council on special education created
39 pursuant to this section. The city-wide council on special education
40 shall consist of eleven voting members and one non-voting member, as
41 follows:

42 (1) nine voting members who shall be parents of students [~~who receive~~
43 ~~services pursuant to article eighty nine of this chapter~~] with individ-
44 ualized education programs, to be selected by parents of students [~~who~~
45 ~~receive such services~~] with individualized education programs pursuant
46 to a representative process developed by the chancellor. Such members
47 shall serve a two year term;

48 (2) two voting members appointed by the public advocate of the city of
49 New York, who shall be individuals with extensive experience and know-
50 ledge in the areas of educating, training or employing individuals with
51 handicapping conditions and will make a significant contribution to
52 improving special education in the city district. Such members shall
53 serve a two year term; and

54 (3) one non-voting member who is a high school senior [~~receiving~~
55 ~~services pursuant to article eighty nine of this chapter~~] with an indi-
56 vidualized education program, appointed by the administrator designated

A. 8903--A

5

1 by the chancellor to supervise [~~city wide~~] special education programs.
2 Such member shall serve a one year term.

3 ~~b. [Members shall not be paid a salary or stipend, but shall be reim-~~
4 ~~bursed for all actual and necessary expenses directly related to the~~
5 ~~duties and responsibilities of the city wide council on special educa-~~
6 ~~tion.~~

7 ~~c.]~~ The city-wide council on special education shall have the power
8 to:

9 (1) advise and comment on any educational or instructional policy
10 involving the provision of services [~~pursuant to article eighty nine of~~
11 ~~this chapter~~] for students with disabilities;

12 (2) advise and comment on the process of establishing committees
13 and/or subcommittees on special education in community school districts
14 pursuant to section forty-four hundred two of this chapter;

15 (3) issue an annual report on the effectiveness of the city district
16 in providing services [~~pursuant to article eighty nine of this chapter~~]
17 to students with disabilities and making recommendations, as appropri-
18 ate, on how to improve the efficiency and delivery of such services; and

19 (4) hold at least one meeting per month open to the public and during
20 which the public may discuss issues facing students with disabilities.

21 ~~[d. The city wide council on special education may appoint a secre-~~
22 ~~tary, pursuant to the policies of the city board who shall perform the~~
23 ~~following functions: (1) prepare meeting notices, agendas and minutes;~~
24 ~~(2) record and maintain accounts of proceedings and other city wide~~
25 ~~council on special education meetings; and (3) prepare briefing materi-~~
26 ~~als and other related informational materials for such meetings. The~~
27 ~~city wide council on special education shall be responsible for the~~
28 ~~appointment, supervision, evaluation and discharge of the secretary.~~

29 ~~e. No person may serve on both the city wide council on special educa-~~
30 ~~tion and a community district education council. A member of the city~~
31 ~~wide council on special education shall be ineligible to be employed by~~
32 ~~such council, any community district education council, or the city~~
33 ~~board. No person shall be eligible for membership on the city wide coun-~~
34 ~~cil on special education if he or she holds any elective public office~~
35 ~~or any elective or appointed party position except that of delegate or~~
36 ~~alternate delegate to a national, state, judicial or other party conven-~~
37 ~~tion, or member of a county committee.~~

38 ~~A person who has been convicted of a felony, or has been removed from~~
39 ~~the city wide council on special education, a community school board, or~~
40 ~~community district education council for any of the following shall be~~
41 ~~permanently ineligible for appointment to the city wide council on~~
42 ~~special education: (1) an act of malfeasance directly related to his or~~
43 ~~her service on such city wide council on special education, community~~
44 ~~school board or community district education council; or (2) conviction~~
45 ~~of a crime, if such crime is directly related to his or her service upon~~
46 ~~such city wide council on special education, community school board or~~
47 ~~community district education council.~~

48 ~~f. (1) In addition to the conditions enumerated in the public officers~~
49 ~~law creating a vacancy, a member of the city wide council on special~~
50 ~~education who refuses or neglects to attend three meetings of such coun-~~
51 ~~cil of which he or she is duly notified, without rendering in writing a~~
52 ~~good and valid excuse therefore vacates his or her office by refusal to~~
53 ~~serve. Each absence and any written excuse rendered shall be included~~
54 ~~within the official written minutes of such meeting. After the third~~
55 ~~unexcused absence the city wide council on special education shall~~
56 ~~declare a vacancy to the chancellor.~~

A. 8903--A

6

1 ~~(2)~~ c. Vacancies shall be filled for an unexpired term by the city-
2 wide council on special education, pursuant to a process developed by
3 the chancellor that shall include consultation with parents of students
4 ~~[who receive services pursuant to article eighty nine of this chapter]~~
5 with individualized educational programs; provided however, that where a
6 vacancy occurs in a position appointed by the public advocate, the
7 public advocate shall appoint a member to serve the remainder of the
8 unexpired term.

9 5. (a) There shall be a city-wide council on English language learners
10 created pursuant to this section. The city-wide council on English
11 language learners shall consist of eleven voting members and one non-
12 voting member, as follows:

13 (i) nine voting members who shall be parents of students who are in a
14 bilingual or English as a second language program conducted pursuant to
15 section thirty-two hundred four of this chapter, to be selected by
16 parents of students who receive such services pursuant to a represen-
17 tative process developed by the chancellor. Such members shall serve a
18 two year term;

19 (ii) two voting members appointed by the public advocate of the city
20 of New York, who shall be individuals with extensive experience and
21 knowledge in the education of English language learners and will make a
22 significant contribution to improving bilingual and English as a second
23 language programs in the city district. Such members shall serve a two
24 year term; and

25 (iii) one non-voting member who is a high school senior who is or has
26 been in a bilingual or English as a second language program, appointed
27 by the administrator designated by the chancellor to supervise such
28 programs. Such member shall serve a one year term.

29 (b) The city-wide council on English language learners shall have the
30 power to:

31 (i) advise and comment on any educational or instructional policy
32 involving bilingual or English as a second language programs;

33 (ii) issue an annual report on the effectiveness of the city district
34 in providing services to English language learners and making recommen-
35 dations, as appropriate, on how to improve the efficiency and delivery
36 of such services; and

37 (iii) hold at least one meeting per month open to the public and
38 during which the public may discuss issues facing English language lear-
39 ners.

40 (c) Vacancies shall be filled for an unexpired term by the city-wide
41 council on English language learners, pursuant to a process developed by
42 the chancellor that shall include consultation with parents of students
43 who receive services for English language learners; provided however,
44 that where a vacancy occurs in a position appointed by the public advo-
45 cate, the public advocate shall appoint a member to serve the remainder
46 of the unexpired term.

47 6. (a) There shall be a city-wide council on high schools created
48 pursuant to this section. The city-wide council on high schools shall
49 consist of thirteen voting members and one non-voting member, as
50 follows:

51 (i) ten voting members who shall be parents of students attending
52 public high schools. Two members representing each borough shall be
53 selected by presidents and officers of the parents' associations or
54 parent-teachers' associations in the relevant borough, pursuant to a
55 process established by the chancellor. Such members shall serve a two
56 year term;

A. 8903--A

7

1 (ii) one voting member who shall be a parent of a high school student
2 with an individualized education program. Such member shall be appointed
3 by the city-wide council on special education, and shall serve a two
4 year term;

5 (iii) one voting member who shall be a parent of a student in a bilin-
6 gual or English as a second language program conducted in a public high
7 school. Such member shall be appointed by the city-wide council on
8 English language learners, and shall serve a two year term;

9 (iv) one voting member appointed by the public advocate of the city of
10 New York, who shall be a resident of the city and shall have extensive
11 business, trade, or education experience and knowledge who will make a
12 significant contribution to improving education in the city district.
13 Such member shall serve for a term of two years; and

14 (v) one non-voting member who is a public high school senior,
15 appointed by the chancellor pursuant to a process developed by the chan-
16 cellor. Such member shall serve a one year term.

17 Officers of parents' associations or parent-teachers' associations who
18 are candidates in the selection process established by the chancellor
19 pursuant to this subdivision shall not be eligible to cast votes in such
20 selection process. The association shall elect a member to vote in the
21 place of each such officer for purposes of the selection process.

22 (b) The city-wide council on high schools shall have the power to:

23 (i) advise and comment on any educational or instructional policy
24 involving high schools;

25 (ii) issue an annual report on the effectiveness of the city district
26 in providing services to high school students and making recommenda-
27 tions, as appropriate, on how to improve the efficiency and delivery of
28 such services; and

29 (iii) hold at least one meeting per month open to the public and
30 during which the public may discuss issues facing high schools.

31 (c) Vacancies shall be filled for an unexpired term by the city-wide
32 council on high schools, pursuant to a process developed by the chancel-
33 lor that shall include consultation with parents of students attending
34 public high school; provided, however, that where a vacancy occurs in a
35 position appointed by the public advocate, the public advocate shall
36 appoint a member to serve the remainder of the unexpired term.

37 7. (a) Members of the city-wide councils established pursuant to this
38 section shall not be paid a salary or stipend, but shall be reimbursed
39 for all actual and necessary expenses directly related to the duties and
40 responsibilities of the city-wide council on which they serve.

41 (b) Each such city-wide council may appoint a secretary, pursuant to
42 the policies of the city board, who shall perform the following func-
43 tions:

44 (i) prepare meeting notices, agendas and minutes;

45 (ii) record and maintain accounts of proceedings and meetings; and

46 (iii) prepare briefing materials and other related informational mate-
47 rials for such meetings.

48 Each city-wide council shall be responsible for the appointment,
49 supervision, evaluation and discharge of the secretary.

50 (c) No person may serve at the same time on more than one city-wide
51 council established pursuant to this section, nor may any person serve
52 at the same time on such a city-wide council and any community district
53 education council.

54 (d) A member of a city-wide council established pursuant to this
55 section shall be ineligible to be employed by any such council, any
56 community district education council, or the city board.

A. 8903--A

8

1 (e) No person shall be eligible for membership on a city-wide council
2 established pursuant to this section if he or she holds any elective
3 public office or any elective or appointed party position except that of
4 delegate or alternate delegate to a national, state, judicial or other
5 party convention, or member of a county committee.

6 (f) A person who has been convicted of a felony, or has been removed
7 from a city-wide council established pursuant to this section or commu-
8 nity district education council for any of the following shall be perma-
9 nently ineligible for appointment to a city-wide council:

10 (i) an act of malfeasance directly related to his or her service on
11 such city-wide council or community district education council; or

12 (ii) conviction of a crime, if such crime is directly related to his
13 or her service upon such city-wide council or community district educa-
14 tion council.

15 (g) In addition to the conditions enumerated in the public officers
16 law creating a vacancy, a member of a city-wide council established
17 pursuant to this section who refuses or neglects to attend three meet-
18 ings of such city-wide council of which he or she is duly notified,
19 without rendering in writing a good and valid excuse therefor vacates
20 his or her office by refusal to serve. Each absence and any written
21 excuse rendered shall be included within the official written minutes of
22 such meeting. After the third unexcused absence such city-wide council
23 shall declare a vacancy to the chancellor.

24 § 2. Section 2590-c of the education law, as added by chapter 123 of
25 the laws of 2003, is amended to read as follows:

26 § 2590-c. Composition of community district education councils. 1.
27 Each community district shall be governed by a community district educa-
28 tion council. The community councils shall consist of eleven voting
29 members and one non-voting member, as follows:

30 (a) Nine voting members shall be parents whose children are attending
31 a school under the jurisdiction of the community district, or have
32 attended a school under the jurisdiction of the community district with-
33 in the preceding two years, and shall be selected by the presidents and
34 officers of the parents' association or parent-teachers' association.
35 Such members shall serve for a term of two years. Presidents and offi-
36 cers of parents' associations or parent-teachers' associations who are
37 candidates in the selection process pursuant to this section shall not
38 be eligible to cast votes in such selection process. The association
39 shall elect a member to vote in the place of each such president or
40 officer for the purposes of the selection process.

41 (b) Two voting members shall be appointed by the borough presidents
42 corresponding to such district. Such appointees shall be residents of,
43 or own or operate a business in, the district and shall be individuals
44 with extensive business, trade, or education experience and knowledge,
45 who will make a significant contribution to improving education in the
46 district. Such members shall serve for a term of two years and may only
47 be reappointed for one additional two year term.

48 (c) One non-voting member who is a high school senior residing in the
49 district, appointed by the superintendent from among the elected student
50 leadership. Such member shall serve for a one year term.

51 Members shall not be paid a salary or stipend, but shall be reimbursed
52 for all actual and necessary expenses directly related to the duties and
53 responsibilities of the community council.

54 2. For the initial community council, such members must be selected on
55 or before October thirty-first, two thousand three, with terms commenc-
56 ing on December first, two thousand three. Thereafter, commencing in May

A. 8903--A

9

1 of two thousand five, the selection of community council members shall
2 occur on the second Tuesday in May, with terms commencing on the follow-
3 ing July first.

4 3. Each such council shall select one of its voting members to serve
5 as chair.

6 4. Notwithstanding any provisions of law to the contrary, the communi-
7 ty district education council may appoint a secretary, pursuant to the
8 policies of the city board, who shall perform the following functions:
9 (a) prepare meeting notices, agendas and minutes; (b) record and main-
10 tain accounts of proceedings and other council meetings; and (c) prepare
11 briefing materials and other related informational materials for such
12 meetings. Each council shall be responsible for the appointment, super-
13 vision, evaluation and discharge of the secretary.

14 5. No person may serve on more than one community council or on [~~both~~]
15 the city-wide council on special education, the city-wide council on
16 English language learners, or the city-wide council on high schools and
17 a community council. A member of a community council shall be ineligible
18 to be employed by the community council of which he or she is a member,
19 any other community council, the city-wide council on special education,
20 the city-wide council on English language learners, the city-wide coun-
21 cil on high schools, or the city board. No person shall be eligible for
22 membership on a community council if he or she holds any elective public
23 office or any elective or appointed party position except that of dele-
24 gate or alternate delegate to a national, state, judicial or other party
25 convention, or member of a county committee.

26 A person who has been convicted of a felony, or has been removed from
27 a community school board, community district education council, or the
28 city-wide council on special education, the city-wide council on English
29 language learners, or the city-wide council on high schools for any of
30 the following shall be permanently ineligible for appointment to any
31 community district education council: (a) an act of malfeasance directly
32 related to his or her service on [~~such~~] the city-wide council on special
33 education, the city-wide council on English language learners, the city-
34 wide council on high schools, community school board or community
35 district education council; or (b) conviction of a crime, if such crime
36 is directly related to his or her service upon [~~such~~] the city-wide
37 council on special education, the city-wide council on English language
38 learners, the city-wide council on high schools, community school board
39 or community district education council.

40 Any decision rendered by the chancellor or the city board with respect
41 to the eligibility or qualifications of the nominees for community
42 district education councils must be written and made available for
43 public inspection within seven days of its issuance at the office of the
44 chancellor and the city board. Such written decision shall include the
45 factual and legal basis for its issuance and a record of the vote of
46 each board member who participated in the decision, if applicable.

47 6. (a) In addition to the conditions enumerated in the public officers
48 law creating a vacancy, a member of a community district education coun-
49 cil who refuses or neglects to attend three meetings of such council of
50 which he or she is duly notified, without rendering in writing a good
51 and valid excuse therefore vacates his or her office by refusal to
52 serve. Each absence and any written excuse rendered shall be included
53 within the official written minutes of such meeting. After the third
54 unexcused absence the community council shall declare a vacancy to the
55 chancellor.

A. 8903--A

10

1 (b) (1) Vacancies in positions that were not appointed by a borough
2 president shall be filled for an unexpired term by the community
3 district education council after consultation with the presidents' coun-
4 cil or other consultative body representing parents' associations and
5 other educational groups within the district. Recommendations made by
6 such parents and other educational groups shall be submitted in writing
7 and included within the record of the meeting at which the vacancy is
8 filled.

9 (2) If such vacancy results in the council not having at least one
10 member who is a parent of a student who is an English language learner,
11 or results in the council not having at least one member who is a parent
12 of a student with an individualized education program, the community
13 council shall select a parent having such qualifications to fill the
14 vacancy.

15 (c) If the vacancy is not filled by the community council within sixty
16 days after it is declared due to a tie vote for such appointment, the
17 chancellor shall vote with the community council, to break such tie
18 vote. If the community council has failed to fill the vacancy within
19 sixty days after it is declared because of any other reason, the chan-
20 cellor shall order the community council to do so pursuant to section
21 twenty-five hundred ninety-1 of this article.

22 (d) Where a vacancy occurs in a position appointed by a borough presi-
23 dent, the borough president shall appoint a member to serve the remain-
24 der of the unexpired term.

25 7. (a) Each community council shall prepare and submit to the city
26 board a performance report every month. The information provided shall
27 include community council members' attendance records; participation in
28 community council committees and other community council activities;
29 visits to schools; and voting records on major issues before the commu-
30 nity council.

31 (b) The city board shall review and consolidate the performance
32 reports into one comprehensive city district-wide report, which shall be
33 disseminated to the community and the media semiannually.

34 8. The chancellor shall: (a) develop a process to ensure a uniform
35 election process for parent associations and parent-teacher associ-
36 ations. Such process shall ensure uniformity with respect to timing of
37 elections and the structure and size of the body.

38 (b) develop a process for nomination of candidates for community coun-
39 cil membership. Such process will outline in detail the procedure which
40 must be followed to present a name for consideration, [~~shall prohibit~~
41 ~~officers of any parent association or parent teacher association from~~
42 ~~being nominated,~~] may include qualifications and prohibitions in addi-
43 tion to those outlined in this section and may allow for an interview
44 process for nominees.

45 (c) develop selection procedures for community council members which
46 shall attempt to ensure membership that reflects a representative cross-
47 section of the communities within the school district and diversity of
48 the student population including those with particular educational
49 needs, shall include consideration of the enrollment figures within each
50 community district and the potential disparity of such enrollment from
51 school to school within the district, and shall ensure that, to the
52 extent possible, a school may have no more than one parent represen-
53 tative on the community council. Such procedures shall ensure that at
54 least one position on the community council is filled by a parent of a
55 student who is an English language learner, and at least one position is
56 filled by a parent of a student with an individualized education

A. 8903--A

11

1 program, and shall allow for the seven remaining positions to be filled
2 by parents who are otherwise eligible.

3 (d) promulgate rules and regulations requiring financial disclosure by
4 the nominees and policies prohibiting political endorsements of and
5 campaign contributions to nominees.

6 (e) beginning in January of each school year and continuing until the
7 date of selection, ensure the distribution of guides to parents in addi-
8 tion to information regarding community council roles, functions, and
9 activities, including upcoming parents' association and parent-teacher
10 association elections, candidate information, and the nature of the
11 selection process.

12 Prior to the adoption of the processes, procedures, rules or regu-
13 lations set forth in this subdivision, the chancellor shall ensure that
14 there is an inclusive public process which allows for sufficient public
15 input from parents and the community including public hearings. All such
16 processes, procedures, rules or regulations must be final in sufficient
17 time to assure for an orderly implementation and notification of such
18 processes, procedures, rules or regulations to allow for full community
19 participation in the nomination and selection processes and procedures.

20 § 3. Subdivision 1 of section 2590-d of the education law, as amended
21 by chapter 123 of the laws of 2003, is amended to read as follows:

22 1. The city board and the chancellor shall prescribe such by-laws and
23 regulations as may be necessary to make effectual the provisions of this
24 chapter and for the conduct of the proceedings of said board consistent
25 with the requirements of this article. The city board by-laws shall
26 include a process by which any member of the city board may request that
27 items be placed on the city board's agenda. Such request may be made at
28 a city board regular public meeting or prior to such meeting. If a
29 member of the city board requests that an item be placed on the agenda
30 at a regular public meeting of the city board, then the chairperson
31 shall respond to the request at such meeting. If a member of the city
32 board requests that an item be placed on the agenda at any time prior to
33 a regular public meeting of the city board, then the chairperson shall
34 respond to the request at any time prior to the subsequent regular
35 public meeting. Said by-laws and regulations shall be published and
36 indexed and revised at least annually. Copies of such by-laws and regu-
37 lations shall be made available for public inspection via the city
38 board's official internet web site, at the offices of the city board,
39 each community council, the office of the commissioner of education, and
40 the legislative library in Albany, and at such other places as the city
41 board may deem proper.

42 § 4. Section 2590-e of the education law is amended by adding two new
43 subdivisions 20 and 21 to read as follows:

44 20. Consult on the selection of a community superintendent pursuant to
45 subdivision thirty of section twenty-five hundred ninety-h of this arti-
46 cle.

47 21. Hold a joint public hearing with the chancellor or deputy chancel-
48 lor, or in the case of a proposed significant change in school utiliza-
49 tion the chancellor or his or her designee, and the impacted school
50 based management team regarding any proposed school closing or signif-
51 icant change in school utilization, including the phase-out, grade
52 reconfiguration, re-siting, or co-location of schools, of any public
53 school located within the community district pursuant to subdivision
54 two-a of section twenty-five hundred ninety-h of this article.

55 § 5. Section 2590-f of the education law, as added by chapter 720 of
56 the laws of 1996, paragraphs (s) and (t) of subdivision 1 and subdivi-

A. 8903--A

12

1 sions 2 and 3 as amended and paragraph (u) of subdivision 1 as added by
2 chapter 123 of the laws of 2003, is amended to read as follows:

3 § 2590-f. Community superintendents. 1. Subject in every case to
4 powers devolved to principals and schools consistent with this article,
5 the community superintendent shall have the following powers and duties
6 as superintendent of schools for the community district, which shall be
7 exercised in a manner to ensure the implementation of all provisions of
8 law, rules and regulations relating to the management of the schools and
9 the delivery of instructional services:

10 (a) to assist district schools in obtaining waivers from state, feder-
11 al and city board regulations where appropriate to promote student
12 achievement and school performance.

13 (b) to delegate any of her or his powers and duties to such subordi-
14 nate officers or employees of her or his community district as she or he
15 deems appropriate, at his or her sole discretion, and to modify or
16 rescind any power and duty so delegated.

17 (c) except for the appointment of supervisors pursuant to paragraph
18 (d) of this subdivision, to appoint, define the duties of, assign,
19 promote and discharge all employees, including teacher-aides, of the
20 community district, and fix their compensation and terms of employment
21 within amounts appropriated therefor and not inconsistent with the
22 provisions of this article and any collective bargaining agreement.

23 (d) to appoint supervisory personnel from candidates screened by a
24 screening committee [including parents, teachers, and school support
25 personnel, who shall be selected and shall operate in a manner
26 prescribed by chancellor's regulations] consistent with regulations of
27 the chancellor establishing a process that promotes parental and staff
28 involvement in the recruitment, screening, interviewing and recommenda-
29 tion of candidates and consistent with qualifications established
30 through chancellor's regulations.

31 (e) to appoint or reject the principal and assistant principal candi-
32 dates screened by screening committees, [in accordance with procedures
33 and criteria prescribed by chancellor's regulations, and subject to the
34 chancellor's power to reject such appointments pursuant to section twen-
35 ty-five hundred ninety-h of this article] consistent with regulations of
36 the chancellor establishing a process that promotes parental and staff
37 involvement in the recruitment, screening, interviewing and recommenda-
38 tion of candidates, and after consulting with members of the school
39 based management team. Candidates must meet the requirements of regu-
40 lations of the chancellor establishing educational, managerial, and
41 administrative qualifications, including evaluation of each candidate's
42 record of performance in comparable positions and shall be subject to
43 the chancellor's power to reject such appointments pursuant to section
44 twenty-five hundred ninety-h of this article.

45 (f) to supervise and evaluate, at least annually, the performance of
46 principals for every school in the district with respect to educational
47 effectiveness and school performance, including effectiveness of promot-
48 ing student achievement and parental involvement, developing an effec-
49 tive shared decision-making relationship with the school based manage-
50 ment team, and maintaining school discipline; the community
51 superintendent shall have access to all school records that he or she
52 deems necessary and shall consider comments contained within an assess-
53 ment made by the school based management team, pursuant to subparagraph
54 (vii) of paragraph (b-1) of subdivision fifteen of section twenty-five
55 hundred ninety-h of this article, when carrying out such evaluations.

A. 8903--A

13

1 (g) the authority to transfer or remove principals for persistent
2 educational failure, conflicts of interest, and ethics violations, and
3 to require principals to participate in training and other remedial
4 programs to address identified factors affecting student achievement and
5 school performance, consistent with sections twenty-five hundred nine-
6 ty-h, twenty-five hundred ninety-i and twenty-five hundred ninety-l of
7 this article.

8 (h) to review, modify and approve school-based budgets proposed by the
9 school, pursuant to section twenty-five hundred ninety-r of this
10 article, provided however, that the community superintendent shall only
11 approve a school-based budget proposal after certifying that it is
12 sufficiently aligned with its corresponding school's comprehensive
13 educational plan. The community superintendent shall prescribe the form
14 and manner in which principals must submit written justification to
15 demonstrate that the proposed school-based budget is aligned with the
16 school's comprehensive educational plan, and shall also include a
17 provision allowing for the school based management team to respond to
18 such justification. The community superintendent shall consider the
19 principal's written justification, along with any response provided by
20 the school based management team, prior to making such certification.

21 (h-1) to establish a process that allows for school based management
22 team members, other than the principal, to dispute any decision made by
23 the principal where such team members reach a consensus that the deci-
24 sion is inconsistent with the goals and policies set forth in their
25 school's existing comprehensive educational plan. The community super-
26 intendent shall provide a written response to the school based manage-
27 ment team and the principal that includes the information reviewed and
28 the basis for the community superintendent's decision regarding such
29 dispute.

30 (i) to retain one or more district fiscal officers to monitor and
31 report on schools' expenditures pursuant to the school-based budgets.

32 (j) within the amounts appropriated therefor to administer district
33 minor repair and purchasing funds, and make them available to schools
34 consistent with sections twenty-five hundred ninety-i, twenty-five
35 hundred ninety-r, and subdivisions thirty-six and thirty-seven of
36 section twenty-five hundred ninety-h of this article, for services and
37 supplies provided by the chancellor, the community superintendent, or
38 purchased by the schools, and to provide for minor repairs to all school
39 buildings and other buildings and sites under the district's jurisdic-
40 tion.

41 (k) subject to subdivision three of section twenty-five hundred nine-
42 ty-c of this article and this section, to approve or disapprove matters
43 relating to the instruction of students, including the power to disap-
44 prove school choices with respect to selection of textbooks and other
45 instructional materials.

46 (l) (1) to provide assistance and direct support to parents in access-
47 ing information, addressing concerns and responding to complaints relat-
48 ing to their child's education that cannot be resolved at the school
49 level.

50 (2) to operate administrative offices and similar facilities, includ-
51 ing social centers, and recreational and extracurricular programs, under
52 the district's jurisdiction, and the duty to support the operation of
53 school facilities. The community superintendent shall establish a
54 central office within the district and hire and supervise sufficient
55 staff to directly interact with parents, respond to information
56 requests, receive input and comments, assist the community superinten-

A. 8903--A

14

1 dent in resolving complaints in a timely manner, and work to develop a
2 cooperative relationship with parents and the school community.

3 (m) subject to regulations or resolutions of the city board, to oper-
4 ate cafeteria or restaurant services for pupils and teachers and for the
5 use by the community for school related functions and activities and to
6 furnish meals to the elderly, sixty years of age or older, of the
7 district. Charges shall be sufficient to meet the direct cost of prepar-
8 ing and serving such meals, reducible by available reimbursements.

9 (n) to maintain discipline in the educational and other facilities
10 under the jurisdiction of the district, including the duty to assist the
11 schools in maintaining discipline.

12 (o) to employ or retain counsel subject to the powers and duties of
13 the corporation counsel of the city of New York to be the district's
14 attorney and counsel pursuant to subdivision a of section three hundred
15 ninety-four of the New York city charter; provided, however, that in
16 actions or proceedings between community districts or between a communi-
17 ty district and the city board, each community district may be repres-
18 ented by its own counsel.

19 (p) in compliance with rules and regulations of the commissioner,
20 promulgated pursuant to section one hundred one-a of this chapter, to
21 give written notice to the family court pursuant to subdivision three of
22 section seven hundred fifty-eight-a and subdivision three of section
23 353.6 of the family court act of the desire of any school under the
24 jurisdiction of the community district to act in the supervision of
25 certain juveniles while performing services for the public good.

26 (q) to take all necessary steps to ensure the integrity of community
27 district operations, consistent with standards, policies, objectives,
28 and regulations [promulgated by the chancellor and the city board] of
29 the city district.

30 (r) where so authorized by the chancellor, to exercise the
31 chancellor's powers under subdivision thirty-one of section twenty-five
32 hundred ninety-h of this article.

33 (s) to provide written notice and other related information described
34 in [~~paragraph (b) of~~] subdivision [~~four~~] forty-eight of section twenty-
35 five hundred [~~ninety-c~~] ninety-h of this article to every parent of a
36 child, including a child with a disability, attending a school under the
37 jurisdiction of his or her community district education council as
38 directed by the chancellor.

39 (t) notwithstanding any provisions of law to the contrary, to exercise
40 all of the duties and responsibilities of the employing board as set
41 forth in section three thousand twenty-a of this chapter pursuant to a
42 delegation of the chancellor under section twenty-five hundred ninety-h
43 of this article.

44 (u) to provide relevant data to the community district education coun-
45 cil to encourage informed and adequate public discussion on student
46 achievement and the state of each school within the district.

47 (v) to hold at least two public forums within the district, during
48 each school year, for the purpose of reporting on the district's
49 performance, including progress made toward achieving the district
50 comprehensive educational plan goals, discussing plans for improvement,
51 and receiving parental and community comments and concerns; the communi-
52 ty superintendent shall ensure that notice for the public forums is
53 posted in a manner to maximize the participation of parents, students
54 and school personnel and is specifically circulated to members of the
55 school based management teams, community district education council and
56 the relevant community boards.

A. 8903--A

15

1 (w) to provide notice of any proposed school closing or significant
2 change in school utilization, including the phase-out, grade reconfig-
3 uration, re-siting, or co-location of schools, for any public school
4 within the community district to all impacted parents, including infor-
5 mation as to where a copy of the educational impact statement, or
6 revised educational impact statement if applicable, may be obtained and
7 the date of any hearing on such school closure or significant change in
8 school utilization pursuant to subdivision two-a of section twenty-five
9 hundred ninety-h of this article.

10 2. In exercising such powers and duties each community superintendent
11 shall comply with all applicable provisions of law, by-laws, rules or
12 regulations, directives or agreements of the chancellor and his or her
13 community district education council and with the city-wide educational
14 policies established by the city board and his or her community district
15 education council, including performance standards addressed to adminis-
16 tration and educational effectiveness, and any requirements for continu-
17 ing training and education, embodied in standards, circulars or regu-
18 lations promulgated by the chancellor provided however, that the
19 chancellor shall ensure that community superintendents are assigned to
20 tasks predominantly within their own community districts and that in no
21 event shall community superintendents be assigned any task which would
22 impair their ability to exercise the powers and duties enumerated within
23 this section, such as responding to parental comments and concerns,
24 appointing and evaluating principals, approving school-based budgets,
25 overseeing educational instruction, providing access to information and
26 assisting with resolving complaints.

27 3. No person who has served as a member of a community district educa-
28 tion council may be employed by that board or the community superinten-
29 dent of that district within a period of three years after the termi-
30 nation of such service unless such person qualifies for the position
31 pursuant to a competitive examination and applicable provisions of the
32 civil service law.

33 § 3. Section 2590-g of the education law, as amended by chapter 91 of
34 the laws of 2002, subdivision 4 as amended by chapter 123 of the laws of
35 2003, is amended to read as follows:

36 § 2590-g. Powers and duties of the city board. The city board shall
37 advise the chancellor on matters of policy affecting the welfare of the
38 city school district and its pupils. The board shall exercise no execu-
39 tive power and perform no executive or administrative functions. Noth-
40 ing herein contained shall be construed to require or authorize the
41 day-to-day supervision or the administration of the operations of any
42 school within the city school district of the city of New York. The
43 board shall have the power and duty to:

44 1. (a) approve standards, policies, and objectives [~~and regulations~~]
45 proposed by the chancellor directly related to educational achievement
46 and student performance; [~~and~~]

47 (b) consider and approve any other standards, policies, and objec-
48 tives [~~and regulations~~] as specifically authorized or required by state
49 or federal law or regulation;

50 (c) approve all regulations proposed by the chancellor or the city
51 board and any amendments made thereto;

52 (d) approve the educational facilities capital plan, and any amend-
53 ments requiring city board approval pursuant to section twenty-five
54 hundred ninety-p of this article, following any applicable hearings
55 conducted by the community district education councils;

A. 8903--A

16

- 1 (e) approve annual estimates of the total sum of money which it deems
2 necessary for the operation of the city district and the capital budget
3 pursuant to section twenty-five hundred ninety-q of this article;
- 4 (f) approve the allocation of projected revenues among community
5 districts and their schools pursuant to subdivision a of section twen-
6 ty-five hundred ninety-r of this article and to approve the aggregation
7 of the community district budgets, with a proposed budget for adminis-
8 trative and operational expenditures of the city board and the chancel-
9 lor, following a public hearing pursuant to subdivision f of section
10 twenty-five hundred ninety-r of this article;
- 11 (g) approve a procurement policy for the city district, and any amend-
12 ments made thereto, developed pursuant to subdivision thirty-six of
13 section twenty-five hundred ninety-h of this article; and
- 14 (h) approve proposals for all school closures or significant changes
15 in school utilization including the phase-out, grade reconfiguration,
16 re-siting, or co-location of schools, following any hearing pursuant to
17 subdivision two-a of section twenty-five hundred ninety-h of this arti-
18 cle.
- 19 2. for all purposes, be the government or public employer of all
20 persons appointed or assigned by the city board or the community
21 districts; provided, however, that the chancellor shall have the author-
22 ity to appoint staff pursuant to subdivision forty-one of section twen-
23 ty-five hundred ninety-h of this article;
- 24 2-a. adopt a policy proposed by the chancellor that promotes the
25 recruitment and retention of a workforce at the city district, community
26 district and school level that considers the diversity of the students
27 attending the public schools within the city district. The city board
28 shall review at a regular public meeting an annual report issued by the
29 chancellor outlining the initiatives taken to enhance diversity and
30 equity in recruitment and retention and the impacts of such initiatives
31 to the workforce at the city district, community district and school
32 level;
- 33 3. serve as the appeal board as provided in section twenty-five
34 hundred ninety-l of this article, and subject to such powers, duties,
35 and restrictions as were in effect before the effective date of this
36 section;
- 37 4. subject to the provisions of section twenty-five hundred ninety-i
38 of this article, maintain such jurisdiction over city-wide educational
39 policies governing the special, academic, vocational, and other high
40 schools authorized by this article before the effective date of this
41 section as the respective community district education councils maintain
42 over the schools within their jurisdiction, which shall not be construed
43 to require or authorize the day-to-day supervision or the administration
44 of the operations of such schools.
- 45 5. ~~Approve contracts that would significantly impact the provision of~~
46 ~~educational services or programming within the district.] (a) Approve~~
47 ~~any contract awarded by the city district or the community districts~~
48 ~~where:~~
- 49 (i) such contract was let by a procurement method other than compet-
50 itive sealed bidding pursuant to subdivision thirty-six of section twen-
51 ty-five hundred ninety-h of this article, including but not limited to
52 competitive sealed proposals, or sole source contracts;
- 53 (ii) such contract provides for technical, consultant or personal
54 services;
- 55 (iii) the value of such contract exceeds, or projects an annual
56 expenditure exceeding one million dollars; or

A. 8903--A

17

- 1 (iv) the value of any contracts awarded to a single entity exceeds one
2 million dollars annually;
- 3 (b) Approve all franchises, revocable consents, and concessions
4 awarded by the city district or the community districts.
- 5 (c) Notwithstanding paragraphs (a) and (b) of this subdivision, city
6 board approval shall not be required for any contract with the United
7 States General Services Administration or any other federal agency, if
8 the price is lower than the prevailing market price, or the New York
9 state office of general services or any other state agency, if the price
10 is lower than the prevailing market price, or for any contract made
11 directly by an individual school.
- 12 6. Approve litigation settlements only when such settlement would
13 significantly impact the provision of educational services or program-
14 ming within the district.
- 15 6-a. Approve by-laws for the city board pursuant to section twenty-
16 five hundred ninety-d of this article.
- 17 7. All items requiring city board approval shall be by a public vote
18 at a regular public meeting, consistent with the requirements contained
19 within subdivision one of section twenty-five hundred ninety-b of this
20 article, and such items shall not become effective until after such vote
21 occurs except as expressly authorized in subdivision nine of this
22 section.
- 23 8. (a) Prior to the approval of any proposed item listed in subdivi-
24 sion one of this section, undertake a public review process to afford
25 the public an opportunity to submit comments on the proposed item. Such
26 public review process shall include notice of the item under city board
27 consideration which shall be made available to the public, including via
28 the city board's official internet website, and specifically circulated
29 to all community superintendents, community district education councils,
30 community boards, and school based management teams, at least forty-five
31 days in advance of any city board vote on such item. Notice of the
32 proposed item under city board consideration shall include:
- 33 (i) a description of the subject, purpose and substance of the
34 proposed item under consideration;
- 35 (ii) information regarding where the full text of the proposed item
36 may be obtained;
- 37 (iii) the name, office, address, email and telephone number of a city
38 district representative, knowledgeable on the item under consideration,
39 from whom any information may be obtained concerning such item;
- 40 (iv) date, time and place of any hearing regarding the proposed item,
41 if applicable;
- 42 (v) date, time and place of the city board meeting at which the city
43 board will vote on the proposed item; and
- 44 (vi) information on how to submit written or oral comments regarding
45 the item under consideration.
- 46 (b) In the event that a proposed item listed in subdivision one of
47 this section is substantially revised at any time following the public
48 notice provided pursuant to paragraph (a) of this subdivision, the city
49 board shall issue a revised public notice. Such revised notice shall be
50 available at least fifteen days in advance of any city board vote on the
51 proposed item, but in no event shall the city board vote on any such
52 item within forty-five days from the initial public notice provided
53 pursuant to paragraph (a) of this subdivision. Revised public notice of
54 the item under city board consideration shall include:
- 55 (i) a description of the subject, purpose and substance of the revised
56 item under consideration;

A. 8903--A

18

- 1 (ii) identification of all substantial revisions to the item;
2 (iii) a summary of all public comments received on such item following
3 the initial public notice pursuant to paragraph (a) of this subdivision;
4 (iv) information regarding where the full text of the revised item may
5 be obtained;
6 (v) the name, office, address, email and telephone number of a city
7 district representative, knowledgeable on the item under consideration,
8 from whom any information may be obtained concerning such item;
9 (vi) date, time and place of any hearing regarding the item, if appli-
10 cable;
11 (vii) date, time and place of the city board meeting at which the city
12 board will vote on the item; and
13 (viii) information on how to submit written or oral comments regarding
14 the item under consideration.
15 (c) Following the public review process pursuant to paragraph (a) or
16 (b) of this subdivision but prior to voting on any proposed item listed
17 in subdivision one of this section, the city board shall make available
18 to the public, including via the city board's official internet web
19 site, an assessment of all public comments concerning the item under
20 consideration received prior to twenty-four hours before the city board
21 meeting at which such item is subject to a vote. Such assessment shall
22 include:
23 (i) a summary and an analysis of the issues raised and significant
24 alternatives suggested;
25 (ii) a statement of the reasons why any significant alternatives were
26 not incorporated into the proposed item;
27 (iii) a description of any changes made to the proposed item as a
28 result of public comments received; and
29 (iv) information as to where the full text of any approved item may be
30 obtained.
31 9. In the event the city board or the chancellor determines that imme-
32 diat adoption of any item requiring city board approval is necessary
33 for the preservation of student health, safety or general welfare and
34 that compliance with the requirements of subdivision seven or eight of
35 this section would be contrary to the public interest, then such
36 proposed item may be adopted on an emergency basis. The city board or
37 chancellor shall provide written justification for such determination
38 and make such justification publicly available including via the city
39 board's official internet web site. Except as expressly authorized for
40 school closures or significant changes in school utilizations pursuant
41 to paragraph (f) of subdivision two-a of section twenty-five hundred
42 ninety-h of this article, all emergency adoptions shall only remain in
43 effect for sixty days, during such time the city board shall comply with
44 the requirements of this subdivision in order for the adoption of the
45 item to become permanent.
46 10. Respond, at a regular public meeting, to the recommendations
47 raised in the annual reports issued by the city-wide council on special
48 education, the city-wide council on English language learners and the
49 city-wide council on high schools.
50 11. Conduct an annual survey to allow parents, teachers and school
51 personnel to evaluate the performance of the city board and the chancel-
52 lor with regards to city district resources, oversight and curriculum.
53 The results of such survey shall be made publicly available including
54 via the city board's official internet website.
55 12. Provide information, data, estimates and statistics regarding all
56 matters relating to the city district as requested by the director of

A. 8903--A

19

1 the independent budget office of the city of New York or the comptroller
2 of the city of New York, in a timely fashion.

3 § 7. Section 2590-h of the education law, as amended by chapter 720 of
4 the laws of 1996, the opening paragraph, subdivisions 16, 17, 18, 29, 36
5 and 37 as amended and subdivisions 16-a, 30, 38-a, 41, 42, 43, 45, 46
6 and 47 as added by chapter 91 of the laws of 2002, paragraph (a) of
7 subdivision 1, subdivisions 2, 9, 11, 13, 15, 31, 38, 39, 40 and 44 as
8 amended and paragraph (b-1) of subdivision 15 as added by chapter 123 of
9 the laws of 2003, subdivision 20 as amended by chapter 100 of the laws
10 of 2003 and paragraph (b) of subdivision 39 and paragraph (c) of subdivi-
11 sion 40 as amended by chapter 285 of the laws of 2007, is amended to
12 read as follows:

13 § 2590 n. Powers and duties of chancellor. The office of chancellor
14 of the city district is hereby continued. Such chancellor shall serve at
15 the pleasure of and be employed by the mayor of the city of New York by
16 contract. The length of such contract shall not exceed by more than two
17 years the term of office of the mayor authorizing such contract. The
18 chancellor shall receive a salary to be fixed by the mayor within the
19 budgetary allocation therefor. He or she shall exercise all his or her
20 powers and duties in a manner not inconsistent with the city-wide educa-
21 tional policies of the city board. The chancellor shall have the
22 following powers and duties as the superintendent of schools and chief
23 executive officer for the city district, which the chancellor shall
24 exercise to promote an equal educational opportunity for all students in
25 the schools of the city district, promote fiscal and educational equity,
26 increase student achievement and school performance and encourage local
27 school-based innovation, including the power and duty to:

28 1. Control and operate:

29 (a) academic and vocational senior high schools until such time as the
30 same may be transferred to the jurisdiction of appropriate community
31 district education councils pursuant to this article;

32 (b) all specialized senior high schools. The special high schools
33 shall include the present schools known as:

34 The Bronx High School of Science, Stuyvesant High School, Brooklyn
35 Technical High School, Fiorello H. LaGuardia High School of Music and
36 the Arts in the borough of Manhattan, and such further schools which the
37 city board may designate from time to time. The special schools shall be
38 permitted to maintain a discovery program in accordance with the law in
39 effect on the date preceding the effective date of this section; admis-
40 sions to the special schools shall be conducted in accordance with the
41 law in effect on the date preceding the effective date of this section;

42 (c) all special education programs and services conducted pursuant to
43 this chapter;

44 (d) subject to the provisions of section twenty-five hundred ninety-i
45 of this article, devolving powers to the schools, city-wide programs for
46 city-wide services to a substantial number of persons from more than one
47 community district, including transportation; food services; payroll and
48 personnel functions, including pension and retirement services; and
49 enforcement of laws and regulations promoting equal opportunity in
50 employment, access to public accommodations and facilities, equal oppor-
51 tunity in education, and preventing and addressing unlawful discrimi-
52 nation; provided, however, that a community district may also operate
53 within its district programs which provide similar services otherwise
54 authorized by this article.

55 2. Establish, control and operate new schools or programs of the types
56 specified in subdivision one of this section, or to discontinue any such

A. 8903--A

20

1 schools and programs as he or she may determine; provided, however, that
2 the chancellor shall consult with the affected community district educa-
3 tion council before:

4 (a) substantially expanding or reducing such an existing school or
5 program within a community district;

6 (b) initially utilizing a community district school or facility for
7 such a school or program;

8 (c) instituting any new program within a community district.

9 2-a. (a) Notwithstanding any other provision to the contrary, prepare
10 an educational impact statement regarding any proposed school closing or
11 significant change in school utilization, including the phase-out, grade
12 reconfiguration, re-siting, or co-location of schools, for any public
13 school located within the city district.

14 (b) Such educational impact statement shall include the following
15 information regarding the proposed school closing or significant change
16 in school utilization:

17 (i) the current and projected pupil enrollment of the affected school,
18 the prospective need for such school building, the ramifications of such
19 school closing or significant change in school utilization upon the
20 community, initial costs and savings resulting from such school closing
21 or significant change in school utilization, the potential disposability
22 of any closed school;

23 (ii) the impacts of the proposed school closing or significant change
24 in school utilization to any affected students;

25 (iii) an outline of any proposed or potential use of the school build-
26 ing for other educational programs or administrative services;

27 (iv) the effect of such school closing or significant change in school
28 utilization on personnel needs, the costs of instruction, adminis-
29 tration, transportation, and other support services;

30 (v) the type, age, and physical condition of such school building,
31 maintenance, and energy costs, recent or planned improvements to such
32 school building, and such building's special features;

33 (vi) the ability of other schools in the affected community district
34 to accommodate pupils following the school closure or significant change
35 in school utilization; and

36 (vii) information regarding such school's academic performance includ-
37 ing whether such school has been identified as a school under registra-
38 tion review or has been identified as a school requiring academic
39 progress, a school in need of improvement, or a school in corrective
40 action or restructuring status.

41 (c) Such educational impact statement shall be made publicly avail-
42 able, including via the city board's official internet website, and a
43 copy shall also be filed with the city board, the impacted community
44 council, community boards, community superintendent, and school based
45 management team at least six months in advance of the first day of
46 school in the succeeding school year.

47 (d) No sooner than thirty days, but no later than forty-five days
48 following the filing of the educational impact statement, the chancellor
49 or deputy chancellor, or in the case of a proposed significant change in
50 school utilization the chancellor or his or her designee, shall hold a
51 joint public hearing with the impacted community council and school
52 based management team, at the school that is subject to the proposed
53 school closing or significant change in school utilization, and shall
54 allow all interested parties an opportunity to present comments or
55 concerns regarding the proposed school closing or significant change in
56 school utilization. The chancellor shall ensure that notice of such

A. 8903--A

21

1 hearing is widely and conspicuously posted in such a manner to maximize
2 the number of affected individuals that receive notice, including
3 providing notice to affected parents and students, and shall also notify
4 members of the community boards and the elected state and local offi-
5 cials who represent the affected community district.

6 (d-1) So long as the revised proposal does not impact any school other
7 than a school that was identified in the initial educational impact
8 statement, the chancellor, after receiving public input, may substan-
9 tially revise the proposed school closing or significant change in
10 school utilization provided that the chancellor shall prepare a revised
11 educational impact statement, in the form prescribed in paragraph (b) of
12 this subdivision, and publish and file such educational impact statement
13 in the same manner as prescribed in paragraph (c) of this subdivision.
14 No sooner than fifteen days following the filing of such revised educa-
15 tional impact statement, the chancellor or deputy chancellor, or in the
16 case of a significant change in school utilization the chancellor or his
17 or her designee, shall hold a joint public hearing with the impacted
18 community council and school based management team, at the school that
19 is subject to the proposed school closing or significant change in
20 school utilization and shall allow all interested parties an opportunity
21 to present comments and concerns regarding such proposal. The chancel-
22 lor shall ensure that notice of such hearing is widely and conspicuously
23 posted in such a manner to maximize the number of affected individuals
24 that receive notice, including providing notice to affected parents and
25 students, and shall also notify members of the community boards and the
26 elected state and local officials who represent the affected community
27 district.

28 (e) Except as otherwise provided in paragraph (f) of this subdivision,
29 all proposed school closings or significant changes in school utiliza-
30 tion shall be approved by the city board pursuant to section twenty-five
31 hundred ninety-g of this article and shall not take effect until all the
32 provisions of this subdivision have been satisfied and the school year
33 in which such city board approval was granted, has ended.

34 (f) In the event that the chancellor determines that a school closing
35 or significant change in school utilization is immediately necessary for
36 the preservation of student health, safety or general welfare, the chan-
37 cellor may temporarily close a public school or adopt a significant
38 change in the school's utilization on an emergency basis. Such emergency
39 school closing or significant change in school utilization shall only
40 remain in effect for six months, during such time the chancellor shall
41 comply with the requirements of this subdivision in order for such
42 school closure or significant change in school utilization to extend
43 beyond the six month period.

44 3. Subject to the approval of the city board, develop a plan to
45 provide for the establishment of comprehensive high schools within the
46 city district so that every community district shall have available to
47 its graduates further education and a comprehensive high school. Such
48 plan may provide for the conversion of academic and vocational high
49 schools and may be amended or modified from time to time.

50 4. Appoint teacher-aides for the schools and programs under his or her
51 jurisdiction within the budgetary allocation therefor.

52 5. Retain jurisdiction over all employees who are required in
53 connection with the performance of duties with respect to the design,
54 construction, operation and maintenance of all school buildings in the
55 city school district. Such employees shall have all rights accorded them
56 under the provisions of the civil service law, including manner of

A. 8903--A

22

1 appointment, classification, promotion, transfer and removal including
2 an opportunity to be heard provided, however, that each custodian shall
3 be responsible for the performance of his or her duties to the principal
4 of the school who shall be responsible to the district superintendent.

5 6. Employ or retain counsel subject to the powers and duties of the
6 corporation counsel of the city of New York to be his or her attorney
7 and counsel pursuant to subdivision a of section three hundred ninety-
8 four of the New York city charter; provided, however, that in actions or
9 proceedings between the city board or the chancellor and one or more
10 community boards, the city board or the chancellor shall be represented
11 by the corporation counsel of the city of New York.

12 7. To continue existing voluntary programs or to establish new
13 programs under which students may choose to attend a public school in
14 another community district.

15 8. Promulgate minimum clear educational standards, curriculum require-
16 ments and frameworks, and mandatory educational objectives applicable to
17 all schools and programs throughout the city district, and examine and
18 evaluate periodically all such schools and programs with respect to

19 (i) compliance with such educational standards and other requirements,
20 and

21 (ii) the educational effectiveness of such schools and programs, in a
22 manner not inconsistent with the policies of the city board.

23 9. Furnish community district education councils and the city board
24 periodically with the results of such examinations and evaluations and
25 to make the same public.

26 10. Require each community superintendent to make an annual report
27 covering all matters relating to schools under the district's jurisdic-
28 tion including, but not limited to, the evaluation of the educational
29 effectiveness of such schools and programs connected therewith.

30 11. Require such community district education council or superinten-
31 dent to make such number of periodic reports as may be necessary to
32 accomplish the purposes of this chapter.

33 13. Perform the following functions throughout the city district;
34 provided, however, that the chancellor and any community district educa-
35 tion council may agree that any such function may be appropriately
36 performed by the community district education council with respect to
37 the schools and programs under its jurisdiction:

38 (a) Technical assistance to community districts and schools;

39 (b) Such warehouse space on a regional basis as he or she determines
40 to be necessary or appropriate after consultation with the community
41 superintendents;

42 (c) Purchasing services on a city-wide, regional or community district
43 basis subject to subdivision thirty-six of this section;

44 (d) Reinforce and foster connections to institutions of higher educa-
45 tion to promote student achievement.

46 14. Develop and furnish pre-service and in-service training programs
47 for principals and other employees throughout the city district. In
48 addition, the chancellor shall prepare and annually update a training
49 plan for participating parents, and school personnel, which shall
50 include, at minimum, such training as may be required for exercise of
51 their responsibilities, full participation and compliance with the
52 provisions of this section. The chancellor shall, in addition, within
53 amounts appropriated, allocate sufficient funds directly and to the
54 superintendents for teacher and principal training to meet identified
55 needs for school improvement.

A. 8903--A

23

1 15. Promote the involvement and appropriate input of all members of
2 the school community pursuant to the provisions of this article, includ-
3 ing parents, teachers, and other school personnel, including:
4 (a) establishing a parents' association or a parent-teachers' associ-
5 ation in each school under the chancellor's jurisdiction; and ensuring
6 that the districts do the same; the chancellor shall ensure that meet-
7 ings of such parents' associations or parent-teachers' associations
8 shall comply with section four hundred fourteen of this chapter;
9 (b) pursuant to a plan prepared in consultation with associations of
10 parents, and representatives of teachers, supervisors, paraprofessionals
11 and other school personnel within the city district, and promulgated no
12 later than January thirty-first, nineteen hundred ninety-eight, (i)
13 taking all necessary steps to ensure that no later than October first,
14 nineteen hundred ninety-nine, the city district and the community
15 districts are in full compliance, and remain in compliance thereafter,
16 with state and federal law and regulations concerning school-based
17 management and shared decision-making, including section 100.11 of the
18 commissioner's regulations, in a manner which balances participation by
19 parents with participation by school personnel in advising in the deci-
20 sions devolved to schools pursuant to sections twenty-five hundred nine-
21 ty-i and twenty-five hundred ninety-r of this article, and (ii) pursuant
22 to such plan providing for appropriate training to any parent and school
23 personnel who participate in the [~~school-based~~] school based management
24 and shared decision-making process;
25 (b-1) school based management teams developed pursuant to paragraph
26 (b) of this subdivision shall possess the following powers and duties:
27 (i) develop an annual school comprehensive educational plan [~~that is~~
28 aligned with] and consult on the school-based budget pursuant to section
29 twenty-five hundred ninety-r of this article. Such school comprehensive
30 educational plan shall be developed concurrently with the development of
31 the school-based budget so that it may inform the decision-making proc-
32 ess and result in the alignment of the comprehensive educational plan
33 and the [~~school-based~~] school-based budget for the ensuing school year.
34 Such plan shall be submitted to the [~~district~~] community superintendent
35 along with the principal's written justification demonstrating that the
36 school-based budget proposal is aligned with the school's comprehensive
37 educational plan and the school based management team's response to such
38 justification pursuant to paragraph (h) of subdivision one of section
39 twenty-five hundred ninety-f of this article. In the case of special-
40 ized, academic, vocational, and other high schools that are not under
41 the jurisdiction of a community superintendent, such plan shall be
42 submitted to the chancellor pursuant to subdivision e of section twen-
43 ty-five hundred ninety-r of this article. The chancellor shall ensure
44 that the comprehensive educational plan of every school within the city
45 district is easily accessible and be made available for public
46 inspection including via the city board's official internet website;
47 (ii) hold at least one meeting per month during the school year. Each
48 monthly meeting shall be held at a time that is convenient for the
49 parent representatives;
50 (iii) provide notice of monthly meetings that is consistent with the
51 open meetings law;
52 (iv) have parent members of such teams make recommendations, consist-
53 ent with the chancellor's regulations, on the selection of the school
54 principal and have all members be consulted prior to the appointment of
55 any principal candidate to its school;

A. 8903--A

24

- 1 (v) undergo initial and ongoing training that will allow its members
2 to carry out their duties effectively; ~~and~~
- 3 (vi) dispute any decision made by the principal to the community
4 superintendent pursuant to section twenty-five hundred ninety-f of this
5 article where members of the school based management team, other than
6 the principal, reach a consensus that the decision is inconsistent with
7 the goals and policies set forth in the school's existing comprehensive
8 educational plan; and
- 9 (vii) provide to the community superintendent an annual assessment of
10 the school principal's record of developing an effective shared deci-
11 sion-making relationship with school based management team members; and
- 12 (c) developing, in consultation with associations of parents in the
13 city district, and implementing no later than October first, nineteen
14 hundred ninety-eight, a parental bill of rights which provides for, at
15 minimum:
- 16 (i) reasonable access by parents, persons in parental relation and
17 guardians to schools, classrooms, and academic and attendance records of
18 their own children, consistent with federal and state laws, provided
19 that such access does not disrupt or interfere with the regular school
20 process;
- 21 (ii) the rights of parents, persons in parental relation and guardians
22 to take legal action and appeal the decisions of the school adminis-
23 tration, as authorized by law;
- 24 (iii) the right of parents, persons in parental relation and guardians
25 to have information on their own child's educational materials;
- 26 (iv) access to and information about all public meetings, hearings of
27 the chancellor, the city board, the community superintendents, the
28 community district education councils, and the schools; and
- 29 (v) access to information regarding programs that allow students to
30 apply for admission where appropriate to schools outside a student's own
31 attendance zone.
- 32 16. Promulgate such rules and regulations as he or she may determine
33 to be necessary or convenient to accomplish the purposes of this act,
34 not inconsistent with the provisions of this article and the city-wide
35 educational policies of the city board.
- 36 16-a. Create standards, policies, and objectives and promulgate regu-
37 lations directly related to maintaining the internal fiscal integrity of
38 administrative operations by the chancellor, the community districts,
39 and the schools.
- 40 17. Possess those powers and duties described in section twenty-five
41 hundred fifty-four of this title, the exercise of which shall be in a
42 manner not inconsistent with the provisions of this article and the
43 city-wide educational policies of the city board.
- 44 18. Possess those powers and duties contained in section nine hundred
45 twelve of this chapter and those provisions of article fifteen of this
46 chapter which relate to non-public schools, those powers and duties
47 contained in section five hundred twenty-two of the New York city char-
48 ter, and those powers and duties contained in article seventy-three of
49 this chapter, the exercise of which shall be in a manner not inconsis-
50 tent with the provisions of this article and the city-wide educational
51 policies of the city board.
- 52 19. Delegate any of his or her powers and duties to such subordinate
53 officers or employees as he or she deems appropriate and to modify or
54 rescind any power and duty so delegated.
- 55 20. Ensure compliance with qualifications established for all person-
56 nel employed in the city district, including the taking of fingerprints

A. 8903--A

25

1 as a prerequisite for licensure and/or employment of such personnel.
2 Every set of fingerprints taken pursuant to this subdivision shall be
3 promptly submitted to the division of criminal justice services where it
4 shall be appropriately processed. Furthermore, the division of criminal
5 justice services is authorized to submit the fingerprints to the federal
6 bureau of investigation for a national criminal history record check.

7 21. Perform the functions of the bureau of audit throughout the city
8 district, including ensuring compliance with subdivisions thirty-six and
9 thirty-seven of this section.

10 22. Establish uniform procedures for record keeping, accounting and
11 reporting throughout the city district, including pupil record keeping,
12 accounting and reporting.

13 23. Develop an educational facilities master plan, and revisions ther-
14 eto, as defined in section twenty-five hundred ninety-o of this article.

15 24. Develop and implement a five-year educational facilities capital
16 plan, and amendments thereto, as defined in section twenty-five hundred
17 ninety-p of this article. The chancellor shall also appoint a person,
18 who reports directly to the chancellor or his or her designee, to assist
19 in the development and implementation of such plan and amendments there-
20 to and to oversee the school buildings program.

21 25. On the chancellor's own initiative, or at the request of a commu-
22 nity superintendent, transfer a principal employed by a community school
23 district pursuant to an agreement with the employee organization repres-
24 enting such principals. The chancellor shall establish a procedure for
25 consulting with affected parents to explain any such transfer. Consist-
26 ent with section twenty-five hundred ninety-i of this article, including
27 without limitation subdivision three thereof, and subdivision one there-
28 of with respect to the rights and obligations of a school to which a
29 principal is transferred, in addition to any other law providing for the
30 transfer of principals, the chancellor also may cause the transfer or
31 removal of principals for persistent educational failure, conflicts of
32 interest, and ethics violations, and may require principals to partic-
33 ipate in training and other remedial programs to address identified
34 factors affecting student achievement and school performance.

35 26. Establish educational and experience qualifications and require-
36 ments for all custodial positions including, but not limited to, custo-
37 dians and custodial engineers and develop standards for evaluating the
38 performance of all such individuals, subject to approval of the city
39 board. Such performance standards shall include, but not be limited to:
40 the cleanliness of facilities; adequacy and timeliness of minor repairs;
41 maintenance of good working order of facilities and grounds; general
42 facilities improvement; and emergency services. The chancellor shall
43 promulgate regulations setting forth the respective responsibilities of
44 the district plant manager, which shall include regular consultation and
45 ongoing reports to the community superintendent, and the principal of
46 each school for evaluating the performance of the custodial employees
47 assigned to his or her school; in accordance with such performance stan-
48 dards, and such performance evaluations shall be given dominant weight
49 in any decision for the purposes of: advancement; continued employment;
50 building transfers; and other performance incentives. The responsibility
51 of the principal of each school in the evaluation of custodial employees
52 may be a matter for collective bargaining with collective bargaining
53 representatives for principals.

54 27. ~~Develop~~ Promulgate regulations, in conjunction with each commu-
55 nity superintendent, establishing a plan for providing access to school
56 facilities in each community school district, when not in use for school

A. 8903--A

26

1 purposes, in accordance with the provisions of section four hundred
2 fourteen of this chapter. Such plan shall set forth a reasonable system
3 of fees not to exceed the actual costs and specify that no part of any
4 fee shall directly or indirectly benefit or be deposited into an account
5 which inures to the benefit of the custodians or custodial engineers.

6 25. Promulgate regulations establishing educational, managerial, and
7 administrative qualifications, performance record criteria, and perform-
8 ance standards for the positions of superintendent and principal.

9 30. Select and appoint a community superintendent, in compliance with
10 the qualifications required by subdivision twenty-nine of this section
11 and subject to the provisions of subdivision two of section twenty-five
12 hundred ninety-j of this article, and in consultation with the corre-
13 sponding community district education council, at a salary to be fixed
14 within the budgetary allocation therefor.

15 31. Intervene in any district or school which is persistently failing
16 to achieve educational results and standards approved by the city board
17 or established by the state board of regents, or has failed to improve
18 its educational results and student achievement in accordance with such
19 standards or state or city board requirements, or in any school or
20 district in which there exists, in the chancellor's judgment, a state of
21 uncontrolled or unaddressed violence. The chancellor may, in addition to
22 exercising any other powers authorized by this article, require such
23 school principal, or district as the case may be, to prepare a correc-
24 tive action plan, with a timetable for implementation of steps accepta-
25 ble to the chancellor to reach improvement goals consistent with city
26 board standards and educational results. The chancellor may require the
27 school or district to alter or improve the corrective action plan, or
28 may directly modify the plan. The chancellor shall monitor implementa-
29 tion of the plan, and, if the school or district fails to implement it,
30 may supersede any inconsistent decision of the school principal, commu-
31 nity district education council or community superintendent; assume
32 joint or direct control of the operation of the school or district to
33 implement the corrective action plan; or take any other action author-
34 ized by this article. Any action of the chancellor to supercede an
35 inconsistent decision of the school principal, community district educa-
36 tion council or community superintendent, or to assume joint or direct
37 control of the operation of the school or district pursuant to this
38 subdivision may be appealed to the city board in accordance with section
39 twenty-five hundred ninety-g of this article.

40 32. Appoint a deputy, for each borough of the city of New York,
41 responsible for coordinating and periodically meeting and consulting
42 with the borough president, the chancellor and the community superinten-
43 dents in the borough on borough-specific issues and issues of borough-
44 wide significance, including the provision of services in support of
45 schools and community districts such as transportation, purchasing,
46 capital planning, and coordination with municipal services, and chancel-
47 lor and city board policy with respect to the high schools.

48 33. Require community school board members to participate in training
49 and retraining in order to promote district and school performance and
50 student achievement, as a continuing condition for membership.

51 35. Take all necessary steps to promote the effectiveness and integri-
52 ty of school-based budgeting pursuant to section twenty-five hundred
53 ninety-r of this article, including the obligations imposed by subdivi-
54 sion thirty-seven of this section.

55 36. Develop a procurement policy for the city school district of the
56 city of New York and the community districts and public schools there-

A. 8903--A

27

1 in [~~Such policy shall~~] to ensure the wise and prudent use of public
2 money in the best interest of the taxpayers of the state; guard against
3 favoritism, improvidence, extravagance, fraud, and corruption; and
4 ensure that contracts are awarded consistent with law and on the basis
5 of best value, including, but not limited to, the following criteria:
6 quality, cost and efficiency.

- 7 (a) Such policy shall specifically include:
- 8 (i) a competitive sealed bidding process for the awarding of contracts
9 in which sealed bids are publicly solicited and opened and that a
10 contract is awarded to the lowest responsive, responsible bidder;
- 11 (ii) processes for awarding contracts using alternatives to compet-
12 itive sealed bidding where competitive sealed bidding is not practicable
13 or not advantageous, in which case the most competitive alternative
14 method of procurement, which is appropriate under the circumstances,
15 shall be used consistent with the requirements of subparagraph (vii) of
16 this paragraph;
- 17 (iii) measures to enhance the ability of minority and women owned
18 business enterprises to compete for contracts and to ensure their mean-
19 ingful participation in the procurement process;
- 20 (iv) the manner for administering contracts and overseeing the
21 performance of contracts and contractors;
- 22 (v) standards and procedures to be used in determining whether bidders
23 are responsible;
- 24 (vi) circumstances under which procurement may be used for the
25 provision of technical, consultant or personal services;
- 26 (vii) requiring written justification for the basis, including the
27 efficiency, benefit, and necessity, for awarding a contract using
28 procurement methods other than competitive sealed bidding including
29 competitive sealed proposals and sole source contracts, and for awarding
30 technical, consultant, or personal services contracts, franchises, revo-
31 cable consents, or concessions. Such written justification shall be
32 filed with the comptroller of the city of New York along with the corre-
33 sponding contract, franchise, revocable consent, or concession;
- 34 (viii) maintaining a file for every contract franchise, revocable
35 consent, and concession containing information pertaining to the solici-
36 itation, award and management of every such contract or agreement. Such
37 file shall contain copies of each determination, writing or filing
38 required by this subdivision and shall be open to public inspection with
39 adequate protection for information which is confidential;
- 40 (ix) a process for the filing of all contracts, franchises, revocable
41 consents, and concessions with the comptroller of the city of New York;
- 42 (x) a process for emergency procurement in the case of an unforeseen
43 danger to life, safety, property or a necessary service provided that
44 such procurement shall be made with such competition as is practicable
45 under the circumstances and that a written determination of the basis
46 for the emergency procurement shall be required and filed with the comp-
47 troller of the city of New York when such emergency contract is filed
48 with such comptroller; and
- 49 (xi) procedures for the fair and equitable resolution of contract
50 disputes.
- 51 (b) Consistent with the provisions of paragraph (a) of this subdivi-
52 sion such policy shall also include: [~~(a)~~] (i) standards for quality,
53 function, and utility of all material goods, supplies, and services
54 purchased by the chancellor, superintendents, or schools; [~~(b)~~ regu-
55 latic us for the purchase of material goods, supplies, and services by
56 the chancellor, the superintendents, and the schools, including clearly

A. 8903--A

28

1 ~~articulated procedures which require a clear statement of product spec-~~
2 ~~ifications, requirements or work to be performed, a documentable process~~
3 ~~of soliciting bids, proposals, or other offers, and a balanced and fair~~
4 ~~method, established in advance of receipt of offers, for evaluating~~
5 ~~offers and awarding contracts, (c)] (ii) regulations which enable super-~~
6 ~~intendents and schools to purchase material goods, supplies, and~~
7 ~~services directly from vendors or suppliers when such products are~~
8 ~~available at prices or other terms more economically beneficial for the~~
9 ~~purposes of the acquiring superintendent or school; and (d)] (iii)~~
10 ~~regulations shall include repair services and building supplies, as~~
11 ~~defined in such regulations, for expenditures from each district's minor~~
12 ~~repair and purchasing funds pursuant to section twenty-five hundred~~
13 ~~ninety-r of this article.~~

14 (c) The chancellor shall be responsible for certifying that the proce-
15 dural requisites pursuant to this subdivision and section twenty-five
16 hundred ninety-g of this article have been met, prior to the filing any
17 contract awarded by a procurement method other than competitive sealed
18 bidding, or prior to filing any technical, consultant, or personal
19 services contract, franchise, revocable consent, or concession with the
20 comptroller of the city of New York. The corporation counsel for the
21 city of New York shall certify prior to the filing of such contract or
22 agreement with the comptroller of the city of New York, that the city
23 district has legal authority to award each such contract or agreement.

24 (d) (i) No contract, franchise, revocable consent or concession shall
25 be implemented until a copy has been filed with the comptroller of the
26 city of New York and either such comptroller has registered it or thirty
27 days have elapsed from the date of filing, whichever is sooner, unless
28 an objection has been filed pursuant to subparagraph (iii) of this para-
29 graph, or the comptroller of the city of New York has grounds for not
30 registering such contract or agreement under subparagraph (ii) of this
31 paragraph.

32 (ii) Subject to the provisions of subparagraph (iii) of this para-
33 graph, the comptroller of the city of New York shall register such
34 contract or agreement within thirty days unless such comptroller has
35 information indicating that:

36 (1) there remains no unexpended and unapplied balance of the appropri-
37 ation or fund applicable thereto, sufficient to pay the estimated
38 expense of executing such contract or agreement;

39 (2) a certification required pursuant to this paragraph has not been
40 made; or

41 (3) the proposed vendor has been debarred by the city of New York.

42 (iii) The comptroller of the city of New York may, within thirty days
43 of the date of filing of the contract, franchise, revocable consent or
44 concession with his or her office, object in writing to the registration
45 of such contract or agreement, if in such comptroller's judgment there
46 is sufficient reason to believe that there is possible corruption in the
47 letting of such contract or agreement or that the proposed contractor is
48 involved in corrupt activity. Such objection shall be delivered within
49 such thirty day period to the mayor of the city of New York setting
50 forth in detail the grounds for the New York city comptroller's determi-
51 nation. The mayor of the city of New York may require registration of
52 the contract or agreement despite the New York city comptroller's
53 objections if the mayor of the city of New York has responded to such
54 comptroller's objections in writing, indicating:

55 (1) the corrective actions if any, that have been taken or will be
56 taken in response to such comptroller's objections, or

A. 8903--A

29

1 (2) the reasons why the mayor of the city of New York disagrees with
2 such comptroller's objections.

3 Such response by the mayor of the city of New York shall not serve as
4 the basis for further objection by the New York city comptroller, and
5 such comptroller shall register the contract, franchise, revocable
6 consent or concession within ten days of receipt of the mayor of the
7 city of New York's response.

8 (e) The requirements of paragraphs (c) and (d) of this subdivision
9 shall not apply to an emergency contract awarded pursuant to subpara-
10 graph (x) of paragraph (a) of this subdivision, provided that the chan-
11 cellor shall comply with the requirements of paragraphs (c) and (d) of
12 this subdivision as soon as practicable.

13 37. Establish guidelines and a system of internal controls, including
14 internal administrative controls and internal accounting controls, with
15 provisions for internal audits, as such terms are defined in section
16 nine hundred fifty of the executive law. Such system shall also include
17 a system of internal control review designed to identify weaknesses and
18 identify actions to rectify them; a clear and concise statement of the
19 generally applicable management policies and standards made available to
20 each officer and employee relevant to fiscal and expenditure control, in
21 addition to education and training efforts to ensure adequate under-
22 standing of internal control standards and evaluation techniques; and
23 the designation of an internal control officer for each community
24 district, each of whom shall report to the chancellor and the auditor
25 general, to execute a regular internal audit function, which shall oper-
26 ate in accordance with generally accepted governmental auditing stand-
27 ards. The internal auditors for the community districts shall operate in
28 cooperation with the auditor general, appointed by the chancellor, who
29 shall, in addition to the functions of the internal auditors, monitor
30 and conduct random audits of school districts at least once every two
31 years for fraud, waste, and mismanagement. Notwithstanding any
32 provision of state law or state or city regulation, the internal audi-
33 tors, and the auditor general, shall be entitled, upon their request, to
34 all and any documents and materials bearing in their judgment on the
35 finances and cost-effectiveness of the schools and the school districts
36 that is in the possession of the community districts, the schools, or
37 any officer thereof.

38 38. To exercise all of the duties and responsibilities of the employ-
39 ing board as set forth in section three thousand twenty-a of this chap-
40 ter with respect to any member of the teaching or supervisory staff of
41 schools under the jurisdiction of the community district education coun-
42 cils. The chancellor shall exercise all such duties and responsibilities
43 for all community districts or may delegate the exercise of all such
44 duties and responsibilities to all of the community superintendents of
45 the city district.

46 38-a. To exercise all of the duties and responsibilities of the
47 employing board as set forth in section three thousand twenty-a of this
48 chapter with respect to any member of the teaching or supervisory staff
49 of schools which are not covered under subdivision thirty-eight of this
50 section. Provided, however that the city board shall maintain jurisdic-
51 tion over any consequence resulting from an employee waiver of a hear-
52 ing, as provided for in paragraph (d) of subdivision two of section
53 three thousand twenty-a of this chapter.

54 39. (a) Prescribe regulations and by-laws requiring members of the
55 city board, the chancellor, and any other officer or employee in schools
56 and programs under the jurisdiction of the city board and the chancellor

A. 8903--A

30

1 to make annual written disclosure to the chancellor, of the following
2 information:

3 (i) the employment by the city school board or any community district
4 education council of any person related within the third degree of
5 consanguinity or affinity to the person making disclosure, including the
6 employment of any such person for which a two-thirds vote was required
7 under paragraph [e] (e) of subdivision four of section twenty-five
8 hundred ninety-j of this article, with a notation of the date such vote
9 was taken.

10 (ii) the source of any income, reimbursement, gift, or other form of
11 compensation for services rendered, together with a description of such
12 services.

13 (b) The chancellor shall review, at least once annually, compliance
14 with the requirements of subdivisions five and six of section twenty-
15 five hundred ninety-e of this article and regulations or by-laws
16 prescribed in this subdivision. Any community district education council
17 member, community superintendent, or other officer or employee required
18 to make disclosure, who fails to make such disclosure, shall be notified
19 in writing of his or her failure to do so and given thirty days within
20 which to comply.

21 (d) Willful failure to make full and timely disclosure shall consti-
22 tute cause for removal from office of any member of the city board or
23 for any other officer or employee disciplinary action and such other
24 penalty as may be provided by law.

25 (e) Disclosures made pursuant to the requirements of this subdivision
26 and any notification of failure to make disclosures shall be made avail-
27 able for public inspection during regular business hours on regular
28 business days.

29 40. (a) Prescribe regulations and by-laws requiring members of the
30 city board, the chancellor, and, for good cause shown, any other officer
31 or employee in schools and programs under the jurisdiction of the city
32 board and the chancellor, to submit to the chancellor, in the discretion
33 of the chancellor, financial reports for themselves and their spouses.

34 (b) The frequency and period of coverage, the designation of persons
35 to submit such reports by name, title, or income level, or by a combina-
36 tion thereof, and the content of such reports, including minimum dollar
37 amounts, shall be determined by the chancellor, and such reports may
38 include but not necessarily be limited to the following:

39 (i) amount and source of income for services rendered, together with a
40 description of such services;

41 (ii) amount and source of gifts, capital gains, reimbursements for
42 expenditures, and honoraria;

43 (iii) investments in securities and real property;

44 (iv) amount of debts and names of creditors;

45 (v) outstanding loans and other forms of indebtedness due to person
46 reporting or spouse, by name and amounts; and

47 (vi) trusts and other fiduciary relationships and their assets in
48 which a beneficial interest is held.

49 (c) Willful failure to file required financial reports shall consti-
50 tute cause for removal from office of any member of the city board or
51 for any other officer or employee disciplinary action and such other
52 penalty as may be provided by law.

53 41. Appoint and set salaries for staff in non-represented managerial
54 titles.

55 42. (a) To dispose of such personal property used in the schools and
56 other buildings of the city of New York under the charge of the city

A. 8903--A

31

1 board as shall no longer be required for use therein. Such disposition
2 shall be made in the name of the city of New York and for such city.

3 (b) The chancellor may sell, at prices as may be agreed upon, such
4 manufactured articles or other products of any school of the district,
5 day and evening, as may not be utilized by the city board, and all
6 moneys realized by the sale thereof shall be paid into the city treasury
7 and shall at once be appropriated by the city to a special fund to be
8 administered by the city board for such purposes as such board, in its
9 discretion, may determine. All other moneys realized by the sale of
10 personal property shall be paid into the city treasury and shall at once
11 be appropriated by the city to the special school fund of the city board
12 for use in the borough in which the property sold was situated.

13 (c) Such method of disposal shall be deemed not to apply to the dispo-
14 sition of school books pursuant to subdivision forty-three of this
15 section.

16 43. To dispose of, to the best advantage of the city of New York,
17 either by sale or on the basis of money allowance for waste paper, all
18 books delivered to the several public schools of such city that have
19 been discarded either by reason of being obsolete, no longer required by
20 the course of study, worn by long usage, or mutilated by accident. If
21 disposal is made by sale, it shall be to the highest bidder, and the
22 money realized shall be paid into the city treasury and shall at once be
23 appropriated by the city to the special school fund of the city board
24 entitled "supplies". If disposal is made on the basis of money allowance
25 for waste paper, it shall be to the highest bidder. Such discarded books
26 may be disposed of without public advertisement or entry into a formal
27 contract. Should the discarded books be in such condition that no sale
28 or exchange can be made, or should there be reason to believe that such
29 discarded books have become infected through disease among the pupils,
30 or should the superintendent of schools certify that such discarded
31 books contain erroneous, inaccurate, obsolete, or antiquated subject
32 matter, illustrations, maps, charts, or other material, the committee on
33 supplies of the board of education, if such books cannot be sold, given
34 away, or otherwise salvaged as waste paper without danger to the public
35 health, may authorize their destruction by fire, in which event the
36 superintendent of school supplies shall obtain and file in his or her
37 office a certificate that such books have been so destroyed, signed by
38 the principal of the school in which the books are located.

39 44. To provide the proper book or books in which he or she shall cause
40 the class teachers under the direction and supervision of the principal
41 to enter the names, ages, and residences of the pupils attending the
42 school, the name of the parent or guardian of each pupil, and the days
43 on which the pupils shall have attended respectively, and the aggregate
44 attendance of each pupil during the year, and also the day upon which
45 the school shall have been visited by the superintendent of schools or
46 by an associate superintendent of schools or by an assistant superinten-
47 dent, or by members of the city board, or by members of the community
48 district education council, or by any of them, which entry shall be
49 verified by such oath or affirmation of the principal as may be
50 prescribed by the chancellor. Such books shall be preserved as the prop-
51 erty of the chancellor and shall at all times be open to inspection by
52 members of the city board, by members of the community councils and by
53 the superintendent of schools, or by any associate superintendent of
54 schools, or by the assistant superintendents.

55 45. Make rules and regulations for the conduct, operation, and mainte-
56 nance of extra classroom activities and for the safeguarding, account-

A. 8903--A

32

1 ing, and audit of all moneys received and derived therefrom. In the case
2 of any extra classroom activity as it shall deem proper, and notwith-
3 standing the provisions of section twenty-five hundred thirty of this
4 title, it may direct that the moneys received or derived from the
5 conduct, operation, or maintenance of such an extra classroom activity
6 be deposited with the auditor, who in such event shall be the treasurer
7 of such an extra classroom activity, the moneys of which are required to
8 be so deposited. In the procurement of articles and services for the
9 conduct, operation, and maintenance of a cafeteria or restaurant
10 service, the chancellor shall be subject to applicable provisions of
11 law, except that said chancellor need not have duly advertised for esti-
12 mates in order to contract for such articles or services in an amount
13 exceeding one thousand dollars. The chancellor shall also have power to
14 assign any officers or employees to perform such duties as he or she may
15 prescribe in connection with an extra classroom activity and to desig-
16 nate such officers and employees when so assigned from whom a bond shall
17 be required for faithful performance of their duties and to fix the sum
18 in which each such bond shall be given.

19 46. To maintain, through such representatives as he or she may desig-
20 nate, an effective visitation and inspection of all schools and classes
21 maintained in institutions controlled by the department of correction of
22 the city of New York.

23 47. To assign, in his or her discretion, one or more employees of the
24 city board to serve as trial examiner with power to conduct investi-
25 gations and hearings on behalf of the chancellor. Each trial examiner
26 shall report the result of any such investigation or hearing to the
27 chancellor.

28 48. To hold a public meeting in each community district, in conjunc-
29 tion with the community district education council, during a two year
30 period, beginning with the two thousand nine--two thousand ten school
31 year, in order to report on public school finances, student performance,
32 and educational goals and priorities of the city district and to receive
33 and respond to public comments and concerns. The chancellor shall direct
34 the community superintendent to provide public notice of such meeting in
35 order to maximize the participation of parents, students, and all other
36 interested parties.

37 49. To provide information, data, estimates and statistics regarding
38 all matters relating to the city district as requested by the director
39 of the independent budget office of the city of New York or the comp-
40 troller of the city of New York, in a timely fashion.

41 50. To issue an annual report on the participation of minority and
42 women owned business enterprises in the city district's procurement
43 process including the number of contracts awarded to minority and women
44 owned business enterprises, the percent of contracts awarded to minority
45 and women owned business enterprises of the total number of all city
46 district contracts, the aggregate value of all contracts awarded to
47 minority and women owned business enterprises, and the percent of the
48 aggregate value of contracts awarded to minority and women owned busi-
49 ness enterprises of the total aggregate value of all city district
50 contracts.

51 51. Propose a policy for city board approval that promotes the
52 recruitment and retention of a workforce at the city district, community
53 district, and school level that considers the diversity of the students
54 attending the public schools within the city district. The chancellor
55 shall issue an annual report outlining the initiatives taken to enhance
56 diversity and equity in recruitment and retention and the impacts of

A. 8903--A

33

1 such initiatives to the workforce at the city district, community
2 district and school level.

3 § 8. Section 2590-i of the education law, as added by chapter 720 of
4 the laws of 1996, paragraph (c) of subdivision 2 as amended by chapter
5 91 of the laws of 2002, is amended to read as follows:

6 § 2590-i. Powers and duties of schools; principals; provisions for the
7 transfer of jurisdiction of high schools. 1. The principal shall be the
8 administrative and instructional leader of the school. Subject to the
9 regulations of the chancellor and applicable collective bargaining
10 agreements and obligations, the principal shall be responsible for the
11 day to day operation of the school and shall carry out these duties in
12 consultation with parents, teachers and other staff, and the school
13 based management team pursuant to section twenty-five hundred ninety-h
14 of this article including:

15 (a) promote an equal educational opportunity for students in the
16 school,

17 (b) subject to school-based budgeting pursuant to section twenty-five
18 hundred ninety-r of this article,

19 (c) subject to collective bargaining obligations and agreements, the
20 budget applicable to the school, and the other provisions of this arti-
21 cle including section twenty-five hundred ninety-j of this article, to
22 make recommendation on staff selection, including through the establish-
23 ment of appropriate objective criteria consistent with chancellor's
24 regulations for filling vacancies based upon the school's instructional
25 and facility needs,

26 (d) subject to the standards and assessments promulgated by the chan-
27 cellor, to develop school-based curricula and syllabi for instruction,
28 and to address other matters relating to the instruction of students,
29 including the selection of texts from lists approved by the chancellor
30 and instructional materials, consistent with regulations of the commis-
31 sioner, and subject to the approval of the superintendent, or chancellor
32 in the case of schools under the jurisdiction of the city board,

33 (e) subject to the approval of the superintendent, or, where appropri-
34 ate, the chancellor and within the limits of funds made available there-
35 for, to enhance teacher and staff development relevant to increasing
36 student achievement, support extended day programs, school reform
37 programs, and pupil-support services,

38 (f) enhance pupil support services by coordinating related programs,

39 (g) to make or arrange for minor repairs as delegated by the chancel-
40 lor or superintendent pursuant to regulations of the chancellor, or as
41 otherwise authorized by law subject to subdivisions thirty-six and thir-
42 ty-seven of section twenty-five hundred ninety-h of this article,

43 (h) subject to subdivisions thirty-six and thirty-seven of section
44 twenty-five hundred ~~nine-h~~ ninety-h of this article, identifying and
45 purchasing equipment and supplies that can be purchased for less than if
46 purchased through purchasing arrangements entered into through the city
47 board, the chancellor or the superintendent,

48 (i) to manage and operate the school building and other facilities
49 under its jurisdiction.

50 2. (a) The principal may be removed or transferred by the superinten-
51 dent or the chancellor for persistent educational failure of the school
52 or other cause. Removals may be caused pursuant to section three thou-
53 sand twenty-a of this chapter if applicable. Transfers may be caused
54 pursuant to subdivision twenty-five of section twenty-five hundred nine-
55 ty-h of this article. Any such removal or transfer may be appealed to
56 the city board, during which time the superintendent may appoint an

A. 8903--A

34

1 acting principal subject to the approval of the chancellor. Provided
2 however that such appointee must meet qualifications pursuant to para-
3 graph ~~(d)~~ (c) of this subdivision. Persistent educational failure of
4 the school shall be defined in regulations of the chancellor to include
5 a pattern of poor or declining achievement; a pattern of poor or declin-
6 ing attendance; disruption or violence; and continuing failure to meet
7 chancellor's performance standards or other standards.

8 (b) The principal may be required by the chancellor or the superinten-
9 dent to participate in training or other forms of staff development or
10 to address identified areas of educational need and promote student
11 achievement and school performance.

12 (c) Principals shall be selected consistent with regulations of the
13 chancellor establishing a process that promotes parental and staff
14 involvement in the recruitment, screening, interviewing and recommenda-
15 tion of candidates. Candidates must meet the requirements of regu-
16 lations of the chancellor establishing educational, managerial, and
17 administrative qualifications, including evaluation of each candidate's
18 record of performance in comparable positions. In the case of schools
19 under the jurisdiction of the community districts, a candidate approved
20 by a community superintendent pursuant to paragraph (e) of subdivision
21 one of section twenty-five hundred ninety-f of this article may nonethe-
22 less, before assuming the position, be rejected by the chancellor for
23 cause. In the case of schools not under the jurisdiction of the commu-
24 nity districts, the chancellor shall additionally consult with members
25 of the school based management team prior to appointing a principal
26 candidate to any such school.

27 3. Provisions for transfer of jurisdiction of high schools. Pursuant
28 to regulations of the chancellor approved by the city board, any high
29 school, other than a special senior academic or vocational high school
30 of city-wide competitive admission, may be transferred from the juris-
31 diction of the city board to the jurisdiction of the community district
32 in which it is located, or from such community district to the city
33 board, upon the consent of the chancellor and the community superinten-
34 dent. In such event, the chancellor and the superintendent shall prompt-
35 ly take all necessary steps to effectuate the transfer.

36 § 9. Paragraph b of subdivision 3 of section 2590-p of the education
37 law, as amended by chapter 123 of the laws of 2003, is amended to read
38 as follows:

39 b. Commencing on November first, nineteen hundred ninety-three, and
40 every five years thereafter, the chancellor shall submit a proposed
41 five-year educational facilities capital plan to take effect on the
42 succeeding July first to each community district education council,
43 which shall conduct a public hearing and shall prepare and submit recom-
44 mendations to the chancellor on or before January first of the ensuing
45 year with respect to matters in the plan that involve that school
46 district. The chancellor shall consider the recommendations received
47 from the community district education councils, and, on or before Febru-
48 ary first of such year, shall submit a final proposed five-year educa-
49 tional facilities capital plan to the city board for its approval pursu-
50 ant to paragraph (d) of subdivision one of section twenty-five hundred
51 ninety-g of this article. ~~[On or before March first of such year, the~~
52 ~~city board shall approve the five year educational facilities capital~~
53 ~~plan submitted by the chancellor.]~~

54 § 10. Section 2590-r of the education law, as added by chapter 720 of
55 the laws of 1996, is amended to read as follows:

A. 8903--A

35

1 § 2590-r. School based budgeting and expenditure reporting. The chan-
2 cellor shall, in consultation with the city board and community district
3 superintendents, establish in regulations a comprehensive process of
4 school-based budgeting and expenditure reporting no later than November
5 first, nineteen hundred ninety-eight. Notwithstanding any provision of
6 section twenty-five hundred ninety-q of this article to the contrary,
7 such regulations shall include provisions for:

8 a. the allocation of projected revenues among community districts and
9 their schools on the basis of objective formulae developed by the chan-
10 cellor, after consultation with the community ~~boards~~ councils, commu-
11 nity superintendents and the mayor, and approved by the city board, such
12 formulae shall reflect the relative educational needs of the community
13 districts and their schools to the maximum extent feasible;

14 b. (i) following release of the executive budget of the city of New
15 York by the mayor of the city of New York, the chancellor to inform the
16 principal of each school of that school's preliminary budget allocation,
17 and the principal ~~[of each school]~~ to propose a school-based ~~[expendi-~~
18 ture] budget, after consulting with members of the school based manage-
19 ment team and soliciting input pursuant to ~~[section]~~ sections twenty-
20 five hundred ninety-h, and twenty-five hundred ninety-i of this article
21 on budget priorities from all members of the school community;

22 (ii) for schools under the jurisdiction of a community superintendent,
23 the principal shall be required to provide written justification, in a
24 form and manner prescribed by the community superintendent pursuant to
25 paragraph (h) of subdivision one of section twenty-five hundred ninety-f
26 of this article, to demonstrate that the school-based budget proposal is
27 aligned with the school's comprehensive educational plan;

28 c. the review, modification ~~[and]~~, approval and certification of the
29 proposed school budget ~~[by the]~~ for schools under the jurisdiction of a
30 community superintendent pursuant to paragraph (h) of subdivision one of
31 section twenty-five hundred ninety-f of this article;

32 d. within amounts estimated by the chancellor, the aggregation of the
33 proposed school-based budgets, as modified and approved by the community
34 superintendent, with a proposed budget for the administrative and opera-
35 tional expenses of the community superintendent and community ~~[board]~~
36 council, as developed by the community superintendent, for submission to
37 the chancellor;

38 e. the chancellor to develop a school-based budgeting process for
39 schools under his or her jurisdiction consistent with this section which
40 shall require that: (i) each principal provide written justification
41 demonstrating that the school-based budget is aligned with such school's
42 comprehensive educational plan; (ii) the school based management team
43 submit comments regarding such justification; and (iii) the chancellor
44 certify that the school-based budget is sufficiently aligned with such
45 school's comprehensive educational plan after reviewing the principal's
46 justification and the school based management team's comments;

47 f. the aggregation of the community district budgets, as modified and
48 approved by the chancellor, with a proposed budget for administrative
49 and operational expenditures of the city board and the chancellor, as
50 prepared by the chancellor, for submission to and adoption by the city
51 board after a public hearing;

52 g. after final adoption of the budget for the city district by the
53 mayor and city council, a process of distributing any reductions or
54 increases required by such adoption in an equitable manner which consid-
55 ers the relative needs of community districts and schools to the maximum
56 extent feasible and for modifying the proposed budget accordingly. Such

A. 8903--A

36

1 process shall include an analysis of the relative funding levels of the
2 state, the city, the federal government, and other sources of funds; a
3 comparison of the level of such funding against previous years' total
4 appropriations and actual expenditures; and an analysis of the distrib-
5 ution of funds;

6 h. a comprehensive system of public reporting on the final enacted
7 budget including the levels of appropriation provided by the city, the
8 state and the federal government with a comparison of the level of such
9 funding against previous years' totals, and an explanation of the final
10 budget;

11 i. procedures for schools, superintendents and the chancellor to
12 modify and reallocate monies in the enacted budget;

13 j. a uniform system of budget requests, reports and appropriations.
14 Such units of appropriation shall include (i) such compensation and
15 benefits for staff; (ii) instruction and for pupil services, including
16 costs for purchases, library services, instructional materials, and all
17 other school-based instructional and instructional support costs attrib-
18 utable to other than personal services; (iii) administrative and non-in-
19 structional cost and (iv) extra-curricular activities;

20 k. the provision of appropriate technical support and training to
21 school personnel, parents and other participants in school-based budget-
22 ing;

23 l. a comprehensive planning and monitoring process to promote the
24 implementation of school-based budgeting;

25 m. an annual update of a capital plan by the superintendent with
26 participation of principals and schools, addressing health and safety,
27 maintenance, capacity and technology; and

28 n. a collaborative school-based planning process involving parents,
29 teachers, other school personnel and, where appropriate, students to
30 effectuate the purposes of this section.

31 § 11. The education law is amended by adding two new sections 2590-t
32 and 2590-u to read as follows:

33 § 2590-t. New York city comptroller audits. The comptroller of the
34 city of New York shall have the authority to conduct operational and
35 programmatic audits, in addition to financial audits, of the city
36 district to the same extent that such comptroller has such authority for
37 agencies of the city of New York.

38 § 2590-u. New York city independent budget office reports. 1. The
39 independent budget office of the city of New York shall be authorized to
40 provide analysis and issue public reports regarding financial and educa-
41 tional matters of the city district, to enhance official and public
42 understanding of such matters including but not limited to:

43 (a) student graduation and dropout data;

44 (b) student enrollment projections;

45 (c) school utilization, class sizes and pupil-to-teacher ratios;

46 (d) student assessment data;

47 (e) the delivery of services to students who are in bilingual or
48 English as a second language programs;

49 (f) the delivery of services to students with disabilities;

50 (g) the utilization of federal funds including funds pursuant to title
51 I of the Elementary and Secondary Education Act of nineteen hundred
52 sixty-five, as amended, directed at parental involvement; and

53 (h) matters relating to city district finances.

54 2. In addition to the appropriation available pursuant to section two
55 hundred fifty-nine of the New York city charter, the city of New York
56 shall appropriate during each fiscal year an amount to the independent

A. 8903--A

37

1 budget office of the city of New York not less than two and one-half per
2 centum of the appropriations available to pay for the expenses of the
3 office of management and budget of the city of New York during each
4 fiscal year, to carry out the duties and functions assigned in this
5 subdivision.

6 3. The director of the independent budget office of the city of New
7 York shall be authorized to secure such information, data, estimates and
8 statistics from the city board and the chancellor as such director
9 determines to be necessary for the performance of the functions and
10 duties of such office, and the city board and the chancellor shall
11 provide such information, to the extent that it is available, in a time-
12 ly fashion. The director of the independent budget office of the city of
13 New York shall not be entitled to obtain records which are protected by
14 the privileges for attorney-client communications, attorney work prod-
15 uct, and material prepared for litigation.

16 4. The director of the independent budget office of the city of New
17 York shall ensure that such office uses up-to-date appropriate and
18 professionally accepted methodologies in producing annual data reports
19 related to the city district and that such methodologies used are iden-
20 tified in such reports.

21 § 12. Paragraph (c) of subdivision 1 of section 414 of the education
22 law, as amended by chapter 257 of the laws of 1976, is amended to read
23 as follows:

24 (c) For holding social, civic and recreational meetings and enter-
25 tainments, and other uses pertaining to the welfare of the community;
26 but such meetings, entertainment and uses shall be non-exclusive and
27 shall be open to the general public. Civic meetings shall include, but
28 not be limited to, meetings of parent associations and parent-teacher
29 associations.

30 § 13. Section 19 of chapter 738 of the laws of 1988, amending the
31 administrative code of the city of New York, the public authorities law
32 and other laws relating to the New York city school construction author-
33 ity, as amended by chapter 134 of the laws of 2004, is amended to read
34 as follows:

35 § 19. This act shall take effect immediately, provided, however, that
36 the provisions of subdivision 6 of section 209 of the civil service law,
37 as added by section four of this act, shall expire and be deemed
38 repealed on and after June 30, 1995, and further provided that the
39 provisions of section 1735 of the public authorities law, as added by
40 section fourteen of this act, shall expire and be deemed repealed on
41 June 30, [~~2009~~] 2014.

42 § 14. Subdivision 1 of section 1735 of the public authorities law, as
43 amended by chapter 410 of the laws of 1999, is amended to read as
44 follows:

45 1. Notwithstanding the provisions of paragraph b of subdivision one of
46 section seventeen hundred thirty-four of this title, the award of
47 construction contracts by the authority between July first, nineteen
48 hundred eighty-nine and June thirtieth, two thousand [~~two~~] fourteen,
49 shall not be subject to the provisions of section one hundred one of the
50 general municipal law.

51 § 15. Section 34 of chapter 91 of the laws of 2002 amending the educa-
52 tion law and other laws relating to the reorganization of the New York
53 city school construction authority, board of education and community
54 boards, as amended by chapter 123 of the laws of 2003, is amended to
55 read as follows:

A. 8903--A

38

1 § 34. This act shall take effect July 1, 2002; provided, that sections
2 one through twenty, twenty-four, and twenty-six through thirty of this
3 act shall expire and be deemed repealed June 30, [~~2009~~] 2015; provided,
4 further, that notwithstanding any provision of article 5 of the general
5 construction law, on June 30, [~~2009~~] 2015 the provisions of subdivisions
6 3, 5, and 8, paragraph b of subdivision 13, subdivision 14, paragraphs
7 b, d, and e of subdivision 15, and subdivisions 17 and 21 of section
8 2554 of the education law as repealed by section three of this act,
9 subdivision 1 of section 2590-b of the education law as repealed by
10 section six of this act, paragraph (a) of subdivision 2 of section
11 2590-b of the education law as repealed by section seven of this act,
12 section 2590-c of the education law as repealed by section eight of this
13 act, paragraph c of subdivision 2 of section 2590-d of the education law
14 as repealed by section twenty-six of this act, subdivision 1 of section
15 2590-e of the education law as repealed by section twenty-seven of this
16 act, subdivision 28 of section 2590-h of the education law as repealed
17 by section twenty-eight of this act, subdivision 30 of section 2590-h of
18 the education law as repealed by section twenty-nine of this act, subdi-
19 vision 30-a of section 2590-h of the education law as repealed by
20 section thirty of this act shall be revived and be read as such
21 provisions existed in law on the date immediately preceding the effec-
22 tive date of this act; provided, however, that sections seven and eight
23 of this act shall take effect on November 30, 2003; provided further
24 that the amendments to subdivision 25 of section 2554 of the education
25 law made by section two of this act shall be subject to the expiration
26 and reversion of such subdivision pursuant to section 12 of chapter 147
27 of the laws of 2001, as amended, when upon such date the provisions of
28 section four of this act shall take effect.

29 § 16. Severability. If any clause, sentence, paragraph, section or
30 part of this act shall be adjudged by any court of competent jurisdic-
31 tion to be invalid and after exhaustion of all further judicial review,
32 the judgment shall not affect, impair or invalidate the remainder there-
33 of, but shall be confined in its operation to the clause, sentence,
34 paragraph, section or part of this act directly involved in the contro-
35 versy in which the judgment shall have been rendered.

36 § 17. This act shall take effect immediately, except that if this act
37 shall have become a law on or after June 30, 2009, this act shall take
38 effect immediately and shall be deemed to have been in full force and
39 effect on and after June 30, 2009; provided that:

40 1. sections one, two, three, four, five, six, seven, eight, nine, ten,
41 eleven and twelve of this act shall take effect June 30, 2009;

42 2. the amendments to section 2590-b of the education law made by
43 section one of this act shall not affect the expiration or repeal of
44 certain provisions of such section and shall expire and be deemed
45 repealed therewith;

46 3. the amendments to section 2590-c of the education law made by
47 section two of this act shall not affect the repeal of such section and
48 shall be deemed repealed therewith;

49 4. the amendments to subdivision 1 of section 2590-d of the education
50 law made by section three of this act shall not affect the expiration of
51 such section and shall be deemed to expire therewith;

52 5. the amendments to section 2590-e of the education law made by
53 section four of this act shall not affect the repeal of such section and
54 shall expire and be deemed repealed therewith;

55 6. the amendments to paragraphs (s) and (t) of subdivision 1 and
56 subdivisions 2 and 3 of section 2590-f of the education law made by

A. 8903--A

39

1 section five of this act shall not affect the expiration and reversion
2 of such provisions and shall expire and be deemed repealed therewith;
3 provided further that the amendments to paragraph (u) of subdivision 1
4 of section 2590-f of the education law made by section five of this act
5 shall not affect the repeal of such paragraph and shall expire and be
6 deemed repealed therewith;

7 7. the amendments to section 2590-g of the education law made by
8 section six of this act shall not affect the expiration and reversion of
9 such section and shall expire and be deemed repealed therewith;

10 8. the amendments to section 2590-h of the education law made by
11 section seven of this act shall not affect the expiration and repeal of
12 certain provisions of such section and shall expire and be deemed
13 repealed therewith;

14 9. the amendments to paragraph (c) of subdivision 2 of section 2590-i
15 of the education law made by section eight of this act shall not affect
16 the expiration and reversion of such paragraph and shall expire and be
17 deemed repealed therewith;

18 10. the amendments to subdivision 3 of section 2590-p of the education
19 law made by section nine of this act shall not affect the expiration and
20 reversion of such subdivision and shall expire and be deemed repealed
21 therewith;

22 11. the amendments to section 1735 of the public authorities law made
23 by section thirteen of this act shall not affect the repeal of such
24 section and shall be deemed repealed therewith; and

25 12. any provision in sections one, two, three, four, five, six, seven,
26 eight, nine, ten and eleven of this act not otherwise set to expire
27 pursuant to section 34 of chapter 91 of the laws of 2002, as amended, or
28 section 17 of chapter 123 of the laws of 2003, as amended, shall expire
29 and be deemed repealed June 30, 2015.

A8903A Memo Text Not Found

- This bill is not active in this session.

A08903 Summary:

BILL NO A08903A

SAME AS SAME AS , SAME AS , SAME AS , SAME AS

SPONSOR Silver (MS)

COSPNR Nolan, Farrell, Towns, Lopez V, Pheffer, Benedetto, Hyer-Spencer

MLTSPNR Benjamin, Bing, Carrozza, Clark, Cook, Cymbrowitz, Espailat, Gianaris, Kellner, Lancman, Markey, Mayersohn, Meng, Ortiz, Peralta, Rivera P

Amd Ed L, generally; amd S19, Chap 738 of 1988; amd S1735, Pub Auth L; amd S34, Chap 91 of 2002

Relates to the reorganization of the New York city school construction authority, board of education and community boards.

A08903 Memo:

NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)

BILL NUMBER: A8903A

SPONSOR: Silver (MS)

TITLE OF BILL: An act to amend the education law, in relation to the New York city board of education, chancellor, community councils and community superintendents; to amend chapter 738 of the laws of 1988, amending the administrative code of the city of New York, the public authorities law and other laws relating to the New York city school construction authority, in relation to extending certain provisions of such chapter relating to certain contracts of the authority; to amend the public authorities law, in relation to extending certain provisions;

to amend chapter 91 of the laws of 2002 amending the education law and other laws relating to the reorganization of the New York city school construction authority, board of education and community boards, in relation to extending certain provisions of such chapter; and providing for the repeal of certain provisions of the education law relating thereto

PURPOSE OR GENERAL IDEA OF BILL: To extend chapter 91 of the laws of 2003 and chapter 123 of the laws of 2003 with amendments in order to provide for greater parental participation and input, transparency, and accountability in relation to the management and operation of the New York City school district.

SUMMARY OF SPECIFIC PROVISIONS: This legislation extends changes to the structure of the New York City school district adopted in 2002 and 2003 and provides for several modifications to the management and operation of such school district at the school level, community district level and city district level.

In order to provide for greater parental participation and input at the school level, this legislation strengthens the role of school leadership teams by increasing collaboration between the principal and the school leadership team so that the school's budget is aligned with the educational goals set forth in the school's comprehensive educational plan. The school leadership team must be consulted regarding the selection of the school principal and may also provide an assessment of the principal's record in developing an effective shared decision-making relationship with members of the school leadership team. Additionally, the school leadership team may bring disputes to the Community Superintendent relating to decisions made by the principal that are inconsistent with the goals and policies contained within the school's comprehensive, educational plan. The Chancellor shall make all comprehensive educational plans publicly accessible, including on the Board of Education's website.

Parents and members of the school community have greater notification and an opportunity to voice concerns regarding proposed school closings or significant changes in school utilization. A new mandatory public input process is established which guarantees that parents, students, staff and the community will have at least six months notice and an opportunity to review and comment on proposed school closings and significant changes in school utilization, including the phase-out, grade reconfiguration, re-siting, and co-location of schools, before they could become effective. This process requires the Chancellor to develop and make public an educational impact statement that details the impacts of the proposed school closing or significant change in school utilization to the students, staff, building, and school community. Following the educational impact statement, a public hearing is held in conjunction with the affected community council and school leadership team so that the public may present questions, comments and concerns. All school closures or significant changes in school utilization must be approved by the Board of Education and may not take effect until the

school year after the board vote.

At the district level, parents will be provided with increased access to information and assistance from community district leadership. Community superintendents are reinstated with a clear role and physical presence within the community district. In order to provide parents with a localized resource to obtain information, provide input and comments, and to receive assistance in resolving issues related to their child's education, superintendents must establish a central office within the district and hire and supervise sufficient staff to develop a cooperative relationship with parents and the school community. Superinten-

dents will only be assigned to tasks predominantly within their community district. The Chancellor may not assign any tasks to superintendents that would impair their ability to effectively deliver services required by statute such as responding to parental comments and concerns, approving school budgets, overseeing educational instruction, providing access to information and assisting with resolving complaints. Superintendents will also report to parents and the community during two open forums each year in order to review the district's achievements to prioritize areas for improvement, and to receive comments and concerns.

In order to increase participation and representation of the diverse educational needs and interests of the students of the city school district, eligibility for service on the community councils is broadened to require that each community council contain at least one parent of a student with a disability and one parent of an English language learner

and to allow parent teacher association and parent association officers to serve. Additionally, members of the community councils will be consulted on the selection of the community superintendent.

Parents will have an opportunity to raise the individual educational needs of their children directly to the Chancellor. The Chancellor is required to hold a public meeting in each community district, over a two year period, so that parents are provided with an opportunity to bring comments and concerns to the Chancellor. The Chancellor will also report on school finances, school performance, and the district's educational goals.

City level changes focus on increasing transparency of actions taken by the Board of Education in order to give parents and other stake-holders greater insight into the operation of the city school district. The Board of Education is required to hold monthly meetings with at least ten days public notice of the time, place and agenda. The items that

require a Board of Education vote prior to implementation are significantly expanded to include school closures, significant changes in utilization, the school district budget and capital plan, a new procurement policy, and all regulations and by-laws. The Board of Education will also be required to approve all city district and community district contracts that are not competitively bid and contracts that exceed \$1 million. A new extensive public review process is created to provide information and require a Board of Education response to public comments prior to the adoption of major proposals including school closings, or significant changes in school utilization, capital plan, budget, procurement policy, and all regulations.

To respond to criticisms regarding procurement matters, the Chancellor will be required to develop a meaningful procurement policy with provisions to increase the transparency and accountability of city

school district contracts. This includes requiring written justification of the basis for procuring contracts without competitive sealed bidding and for procuring technical, consultant, personal services, franchises, concessions, and revocable consents. All contracts must be registered with the New York City Comptroller and subject to his or her oversight. Additionally the procurement policy must include a plan to enhance the ability of minority and women owned business enterprises to compete for contracts and to ensure their meaningful participation in the city school district's procurement process.

The Chancellor will develop and the Board of Education will approve a

new policy that promotes the recruitment and retention of a workforce at the city district, community district and school level that considers the diversity of the students attending the public schools within the district. Each year the Board of Education will review a report that outlines the diversity initiatives taken and the impacts of such initiatives on the workforce of the school district.

In order to provide an independent analysis of student and district educational matters, the New York City Independent Budget Office is authorized to issue reports on issues such as student graduation and performance, class sizes, pupil to teacher ratios, student enrollment projections, assessment data, school utilization, the delivery of services to English language learners and students with disabilities, the utilization of federal funds for parental involvement, and all matters relating to the school district's finances. The Independent Budget Office will also be provided with additional resources and access to school district information.

In addition, greater oversight and review of the educational operations and programs is provided through new City Comptroller audits. The New York City Comptroller is provided the authority to conduct programmatic audits of the New York City school district, in addition to the authority to conduct financial audits, to the same extent as all other New York City agencies.

The Board of Education is reconfigured so that parents constitute a majority of the board members. The Chancellor is made an ex officio non-voting member. The Mayor of the city of New York will continue to appoint eight members and each borough president will continue to appoint one member. Two of the Mayor's appointments must now be parents of public school students and no appointed member may serve or be employed by any other board or entity where the majority of its members are appointed by the Mayor of the City of New York. The Board of Education chairperson will be elected from among the voting members and all members will be able to request that items be placed on the board's agenda.

In order to obtain greater feedback from parents and other educational stakeholders regarding the education of high school students and English language learners, the city-wide council on high schools is codified and a new city-wide council on English language learners is created. These citywide councils are modeled after the current city-wide council on special education and will hold monthly meetings, advise and comment on instructional policies, and issue an annual report on the effectiveness of programs and services for students.

JUSTIFICATION: During the 2002 and 2003 Legislative sessions, the Legislature approved the most comprehensive governance changes to the New York City School District in over three decades. In reviewing the impacts of this legislation there have been successes and also areas where concerns have been raised. This legislation seeks to address issues of concern regarding the operation and management of the city school district by making modifications to increase parental participation and input, transparency, and accountability at the school level, community district level, and city district level.

PRIOR LEGISLATIVE HISTORY: New legislation.

FISCAL IMPLICATIONS: This bill would not result in any additional costs to the state. The New York City School District would see some additional costs for functions related to increased transparency, accountability, greater parental involvement, additional public meetings and reports, and increased costs for expanded Independent Budget Office responsibilities.

EFFECTIVE DATE: June 30, 2009, except sections thirteen, fourteen, fifteen take effective immediately.

A08903 Text:

STATE OF NEW YORK

8903--A

2009-2010 Regular Sessions

IN ASSEMBLY

June 14, 2009

Introduced by M. of A. SILVER, NOLAN, FARRELL, TOWNS, V. LOPEZ, PHEFFER, BENEDETTO, HYER-SPENCER -- Multi-Sponsored by -- M. of A. BENJAMIN, BING, CARROZZA, CLARK, COOK, CYMBROWITZ, ESPAILLAT, GIANARIS, KELLNER, LANCMAN, MARKEY, MAYERSOHN, MENG, ORTIZ, PERALTA, P. RIVERA -- read once and referred to the Committee on Education -- committee

discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to the New York city board of education, chancellor, community councils and community superintendents; to amend chapter 738 of the laws of 1988, amending the administrative code of the city of New York, the public authorities law and other laws relating to the New York city school construction authority, in relation to extending certain provisions of such chapter relating to certain contracts of the authority; to amend the public authorities law, in relation to extending certain provisions; to amend chapter 91 of the laws of 2002 amending the education law and other laws relating to the reorganization of the New

York city school construction authority, board of education and community boards, in relation to extending certain provisions of such chapter; and providing for the repeal of certain provisions of the education law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 2590-b of the education law, as added by chapter
2 330 of the laws of 1969, the section heading and subdivision 2 as
3 amended and subdivision 4 as added by chapter 123 of the laws of 2003,
4 subdivision 1 as added by chapter 91 of the laws of 2002 and subdivision
5 3 as amended by chapter 727 of the laws of 1994, is amended to read as
6 follows:

7 § 2590-b. Continuation of city board and establishment of community
8 districts; establishment of the city-wide [~~council on special education~~]

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD14366-07-9

A. 8903--A

2

1 councils on special education, English language learners, and high
2 schools. 1. (a) The board of education of the city school district of
3 the city of New York is hereby continued. Such board of education shall
4 consist of thirteen appointed members: one member to be appointed by
5 each borough president of the city of New York; ~~[seven]~~ and eight
6 members to be appointed by the mayor of the city of New York~~;~~ and
7 ~~the].~~ The chancellor shall serve as an ex-officio non-voting member of
8 the city board. ~~[The chancellor shall serve as the chairperson of the~~
9 ~~city board.]~~ The city board shall elect its own chairperson from among
10 its voting members. All ~~[twelve]~~ thirteen appointed members shall serve
11 at the pleasure of the appointing authority and shall not be employed in
12 any capacity by the city of New York, or a subdivision thereof, or the
13 city board. No appointed member of the city board shall also be a
14 member, officer, or employee of any public corporation, authority, or
15 commission where the mayor of the city of New York has a majority of the
16 appointments. Each borough president's appointee shall be a resident of
17 the borough for which the borough president appointing him or her was
18 elected and shall be the parent of a child attending a public school
19 within the city school district of the city of New York. Each mayoral
20 appointee shall be a resident of the city and two shall be parents of a
21 child attending a public school within the city district. All parent
22 members shall be eligible to continue to serve on the city board for two
23 years following the conclusion of their child's attendance at a public
24 school within the city district. Any vacancy shall be filled by appoint-
25 ment by the appropriate appointing authority within ninety days of such
26 vacancy. Notwithstanding any provision of local law, the members of the
27 board shall not have staff, offices, or vehicles assigned to them or
28 receive compensation for their services, but shall be reimbursed for the
29 actual and necessary expenses incurred by them in the performance of
30 their duties.
31 (b) The city board shall hold at least ~~[twelve]~~ one regular public
32 ~~[meetings]~~ meeting per month. At least one regular public meeting shall
33 be held in each borough of the city of New York per year; any additional
34 meetings may be called at the request of the ~~[chancellor]~~ chairperson.
35 The city board shall consider appropriate public accommodations when
36 selecting a venue so as to maximize participation by parents and the
37 community.
38 (c) (i) Notice of the time, place and agenda for all city board regu-
39 lar public meetings shall be publicly provided, including via the city
40 board's official internet web site, and specifically circulated to all
41 community superintendents, community district education councils, commu-
42 nity boards, and school based management teams, at least ten business
43 days in advance of such meeting.
44 (ii) A city board regular public meeting agenda shall be comprised of
45 a list and brief description of the subject matter being considered,
46 identification of all items subject to a city board vote, and the name,
47 office, address, email address and telephone number of a city district
48 representative, knowledgeable on the agenda, from whom any information
49 may be obtained and to whom written comments may be submitted concerning
50 items on such agenda.
51 (d) The chairperson of the city board shall ensure that at every regu-
52 lar public meeting there is a sufficient period of time to allow for
53 public comment on any topic on the agenda prior to any city board vote.
54 (e) Minutes of all city board regular public meetings shall be made
55 publicly available, including via the city board's official internet

A. 8903--A

3

1 website, in a timely manner but no later than the subsequent regular

2 city board meeting.

3 2. (a) There shall be a community council for each community district
4 created pursuant to this article.

5 (b) The city board shall define, adjust, alter, maintain and adopt the
6 boundaries of the community districts pursuant to this chapter no later
7 than February first, nineteen hundred ninety-five. There shall be no
8 less than thirty nor more than thirty-seven community districts.

9 (c) The city board may readjust or alter the districts in such plan
10 only once in every ten years, commencing with the year two thousand
11 four. The city board in conjunction with the chancellor and the communi-
12 ty council representatives, shall prepare and make public a plan to
13 ensure the smooth transition of pupils and school personnel, creation of
14 new boards, and allocation of school facilities and resources among the

15 districts established pursuant to paragraph (b) of this subdivision.
16 Prior to the adoption of the transition plan, the city board shall hold
17 one or more public hearings in each borough. The city board shall make
18 the transition plan available not less than three weeks before the first
19 such public hearing. Upon receipt of comments, the city board, in
20 conjunction with the chancellor and the community council represen-
21 tatives, shall prepare a revised transition plan, if necessary and make
22 such plan available to the public for comment.

23 3. (a) The redistricting advisory study group established prior to the
24 effective date of this paragraph for the purpose of study and making
25 recommendations on community school district boundaries, is hereby
26 continued and shall perform the duties required herein.

27 (b) The study group shall prepare a report containing recommendations
28 for dividing the city into no more than thirty-seven community
29 districts.

30 (c) In preparation of its recommendations for dividing the city into
31 community districts, the study group shall ensure that the recommenda-
32 tions provide for the most effective delivery of educational services
33 and shall be guided by the following criteria:

34 (1) each community district shall: (i) be a suitable size for effi-
35 cient policy-making and economic management; (ii) contain a reasonable
36 number of pupils; (iii) be compact and contiguous, contained within
37 county lines, and to the maximum extent possible, keep intact communi-
38 ties and neighborhoods; and (iv) bear a rational relationship to
39 geographic areas for which the city of New York plans and provides
40 services;

41 (2) to the extent possible, keep existing lines intact;

42 (3) the common and special education needs of the communities and
43 school children involved;

44 (4) effective utilization of existing and planned school facilities;

45 (5) minimum disruption of existing and planned elementary school-jun-
46 ior high/middle school-high school feeder patterns;

47 (6) transportation facilities;

48 (7) additional administrative costs involved in the creation of such
49 new districts; and

50 (8) ensure fair and effective representation of racial and language
51 groups pursuant to the Voting Rights Act of 1965, as amended;

52 (9) notwithstanding the provisions of this subparagraph and subpara-
53 graphs one through eight of this paragraph: (i) the residents of the
54 county of New York in school district ten as it existed prior to the

55 implementation of this paragraph shall continue to remain in school
56 district ten as such district is comprised; (ii) the boundaries of

A. 8903--A

4

1 community district thirty-one shall continue to remain as they are
2 currently comprised; and (iii) no county shall have fewer community
3 school districts than in existence on the effective date of this para-
4 graph.

5 (d) The study group shall hold one or more public hearings in each
6 borough before final adoption of its recommendations. The study group
7 shall make its recommendations available to the public for inspection
8 and comment not less than one month before the first such public hear-
9 ing. Following its consideration of the comments received on the recom-
10 mendations, the study group shall prepare a report containing its final

11 recommendations. The study group shall submit its report to the city
12 board and make such report available to the public for inspection no
13 later than November first, nineteen hundred ninety-four.

14 (e) The city board of education shall hold public hearings in each
15 borough on the recommendations submitted by the study group and may
16 adopt, revise or reject in whole or in part such recommendations, or,
17 may request the study group to submit adjusted recommendations. The
18 final recommendations shall be adopted by the city board of education no
19 later than February first, nineteen hundred ninety-five to take effect
20 July first, nineteen hundred ninety-six, provided that such revised
21 boundaries adopted by the city board pursuant to this chapter shall be
22 used for purposes of community school board elections to be held on the

23 first Tuesday in May, nineteen hundred ninety-six.

24 (f) Provided, however, that the city board may make minor adjustments,
25 (i) to correct errors that may occur in the district lines adopted by
26 the city board, or (ii) upon showing a change in circumstances. Any such
27 limited revisions to community school district lines may occur between
28 the effective date of this paragraph and the city board readjustment
29 scheduled in the year two thousand four.

30 (g) No public hearings required pursuant to this subdivision shall be
31 held during the months of July and August. All public hearings shall be
32 held at a time and place designated to maximize community and parent
33 participation. Notice of all such public hearings shall be provided in a
34 timely manner to all print and electronic media and shall be widely
35 distributed to all interested parties, so as to maximize participation

36 by parents and the community. In addition such notice shall be posted in
37 each school building and district office.

38 4. a. There shall be a city-wide council on special education created
39 pursuant to this section. The city-wide council on special education
40 shall consist of eleven voting members and one non-voting member, as
41 follows:

42 (1) nine voting members who shall be parents of students [~~who receive~~
43 ~~services pursuant to article eighty nine of this chapter~~] with individ-
44 ualized education programs, to be selected by parents of students [~~who~~
45 ~~receive such services~~] with individualized education programs pursuant
46 to a representative process developed by the chancellor. Such members
47 shall serve a two year term;

48 (2) two voting members appointed by the public advocate of the city of
49 New York, who shall be individuals with extensive experience and know-
50 ledge in the areas of educating, training or employing individuals with
51 handicapping conditions and will make a significant contribution to
52 improving special education in the city district. Such members shall
53 serve a two year term; and

54 (3) one non-voting member who is a high school senior [~~receiving~~
55 ~~services pursuant to article eighty nine of this chapter~~] with an indi-
56 vidualized education program, appointed by the administrator designated

A. 8903--A

5

1 by the chancellor to supervise ~~[city wide]~~ special education programs.
2 Such member shall serve a one year term.

3 b. ~~[Members shall not be paid a salary or stipend, but shall be reim-~~
4 ~~bursed for all actual and necessary expenses directly related to the~~
5 ~~duties and responsibilities of the city wide council on special educa-~~
6 ~~tion.~~

7 ~~€.]~~ The city-wide council on special education shall have the power
8 to:

9 (1) advise and comment on any educational or instructional policy
10 involving the provision of services ~~[pursuant to article eighty nine of~~
11 ~~this chapter] for students with disabilities;~~

12 (2) advise and comment on the process of establishing committees
13 and/or subcommittees on special education in community school districts
14 pursuant to section forty-four hundred two of this chapter;

15 (3) issue an annual report on the effectiveness of the city district

16 in providing services ~~[pursuant to article eighty nine of this chapter]~~
17 ~~to students with disabilities~~ and making recommendations, as appropri-
18 ate, on how to improve the efficiency and delivery of such services; and

19 (4) hold at least one meeting per month open to the public and during
20 which the public may discuss issues facing students with disabilities.

21 ~~[d. The city wide council on special education may appoint a secre-~~
22 ~~tary, pursuant to the policies of the city board who shall perform the~~
23 ~~following functions: (1) prepare meeting notices, agendas and minutes;~~
24 ~~(2) record and maintain accounts of proceedings and other city wide~~
25 ~~council on special education meetings; and (3) prepare briefing materi-~~

26 ~~als and other related informational materials for such meetings. The~~
27 ~~city wide council on special education shall be responsible for the~~
28 ~~appointment, supervision, evaluation and discharge of the secretary.~~

29 e. ~~No person may serve on both the city wide council on special educa-~~
30 ~~tion and a community district education council. A member of the city~~
31 ~~wide council on special education shall be ineligible to be employed by~~
32 ~~such council, any community district education council, or the city~~
33 ~~board. No person shall be eligible for membership on the city wide coun-~~
34 ~~cil on special education if he or she holds any elective public office~~
35 ~~or any elective or appointed party position except that of delegate or~~

36 ~~alternate delegate to a national, state, judicial or other party conven-~~
37 ~~tion, or member of a county committee.~~

38 A person who has been convicted of a felony, or has been removed from
39 the city wide council on special education, a community school board, or
40 community district education council for any of the following shall be
41 permanently ineligible for appointment to the city wide council on
42 special education: (1) an act of malfeasance directly related to his or
43 her service on such city wide council on special education, community
44 school board or community district education council; or (2) conviction
45 of a crime, if such crime is directly related to his or her service upon

46 such city wide council on special education, community school board or
47 community district education council.

48 f. (1) In addition to the conditions enumerated in the public officers
49 law creating a vacancy, a member of the city wide council on special
50 education who refuses or neglects to attend three meetings of such coun-
51 cil of which he or she is duly notified, without rendering in writing a
52 good and valid excuse therefore vacates his or her office by refusal to
53 serve. Each absence and any written excuse rendered shall be included
54 within the official written minutes of such meeting. After the third
55 unexcused absence the city wide council on special education shall
56 declare a vacancy to the chancellor.

A. 8903--A

6

1 ~~(2)~~ c. Vacancies shall be filled for an unexpired term by the city-
2 wide council on special education, pursuant to a process developed by
3 the chancellor that shall include consultation with parents of students
4 [who receive services pursuant to article eighty nine of this chapter]
5 with individualized educational programs; provided however, that where a
6 vacancy occurs in a position appointed by the public advocate, the
7 public advocate shall appoint a member to serve the remainder of the
8 unexpired term.

9 5. (a) There shall be a city-wide council on English language learners
10 created pursuant to this section. The city-wide council on English

11 language learners shall consist of eleven voting members and one non-
12 voting member, as follows:

13 (i) nine voting members who shall be parents of students who are in a
14 bilingual or English as a second language program conducted pursuant to
15 section thirty-two hundred four of this chapter, to be selected by
16 parents of students who receive such services pursuant to a represen-
17 tative process developed by the chancellor. Such members shall serve a
18 two year term;

19 (ii) two voting members appointed by the public advocate of the city
20 of New York, who shall be individuals with extensive experience and
21 knowledge in the education of English language learners and will make a

22 significant contribution to improving bilingual and English as a second
23 language programs in the city district. Such members shall serve a two
24 year term; and

25 (iii) one non-voting member who is a high school senior who is or has
26 been in a bilingual or English as a second language program, appointed
27 by the administrator designated by the chancellor to supervise such
28 programs. Such member shall serve a one year term.

29 (b) The city-wide council on English language learners shall have the
30 power to:

31 (i) advise and comment on any educational or instructional policy
32 involving bilingual or English as a second language programs;

33 (ii) issue an annual report on the effectiveness of the city district

34 in providing services to English language learners and making recommen-
35 dations, as appropriate, on how to improve the efficiency and delivery
36 of such services; and

37 (iii) hold at least one meeting per month open to the public and
38 during which the public may discuss issues facing English language lear-
39 ners.

40 (c) Vacancies shall be filled for an unexpired term by the city-wide
41 council on English language learners, pursuant to a process developed by
42 the chancellor that shall include consultation with parents of students
43 who receive services for English language learners; provided however,
44 that where a vacancy occurs in a position appointed by the public advo-

45 cate, the public advocate shall appoint a member to serve the remainder
46 of the unexpired term.

47 6. (a) There shall be a city-wide council on high schools created
48 pursuant to this section. The city-wide council on high schools shall
49 consist of thirteen voting members and one non-voting member, as
50 follows:

51 (i) ten voting members who shall be parents of students attending
52 public high schools. Two members representing each borough shall be
53 selected by presidents and officers of the parents' associations or
54 parent-teachers' associations in the relevant borough, pursuant to a
55 process established by the chancellor. Such members shall serve a two
56 year term;

A. 8903--A

7

1 (ii) one voting member who shall be a parent of a high school student
2 with an individualized education program. Such member shall be appointed
3 by the city-wide council on special education, and shall serve a two
4 year term;

5 (iii) one voting member who shall be a parent of a student in a bilin-
6 gual or English as a second language program conducted in a public high
7 school. Such member shall be appointed by the city-wide council on
8 English language learners, and shall serve a two year term;

9 (iv) one voting member appointed by the public advocate of the city of
10 New York, who shall be a resident of the city and shall have extensive

11 business, trade, or education experience and knowledge who will make a
12 significant contribution to improving education in the city district.
13 Such member shall serve for a term of two years; and

14 (v) one non-voting member who is a public high school senior,
15 appointed by the chancellor pursuant to a process developed by the chan-
16 cancellor. Such member shall serve a one year term.

17 Officers of parents' associations or parent-teachers' associations who
18 are candidates in the selection process established by the chancellor
19 pursuant to this subdivision shall not be eligible to cast votes in such
20 selection process. The association shall elect a member to vote in the
21 place of each such officer for purposes of the selection process.

22 (b) The city-wide council on high schools shall have the power to:

23 (i) advise and comment on any educational or instructional policy
24 involving high schools;

25 (ii) issue an annual report on the effectiveness of the city district
26 in providing services to high school students and making recommenda-
27 tions, as appropriate, on how to improve the efficiency and delivery of
28 such services; and

29 (iii) hold at least one meeting per month open to the public and
30 during which the public may discuss issues facing high schools.

31 (c) Vacancies shall be filled for an unexpired term by the city-wide
32 council on high schools, pursuant to a process developed by the cancel-

33 lor that shall include consultation with parents of students attending
34 public high school; provided, however, that where a vacancy occurs in a
35 position appointed by the public advocate, the public advocate shall
36 appoint a member to serve the remainder of the unexpired term.

37 7. (a) Members of the city-wide councils established pursuant to this
38 section shall not be paid a salary or stipend, but shall be reimbursed
39 for all actual and necessary expenses directly related to the duties and
40 responsibilities of the city-wide council on which they serve.

41 (b) Each such city-wide council may appoint a secretary, pursuant to
42 the policies of the city board, who shall perform the following func-
43 tions:

44 (i) prepare meeting notices, agendas and minutes;

45 (ii) record and maintain accounts of proceedings and meetings; and

46 (iii) prepare briefing materials and other related informational mate-
47 rials for such meetings.

48 Each city-wide council shall be responsible for the appointment,
49 supervision, evaluation and discharge of the secretary.

50 (c) No person may serve at the same time on more than one city-wide
51 council established pursuant to this section, nor may any person serve
52 at the same time on such a city-wide council and any community district
53 education council.

54 (d) A member of a city-wide council established pursuant to this
55 section shall be ineligible to be employed by any such council, any

56 community district education council, or the city board.

A. 8903--A

8

1 (e) No person shall be eligible for membership on a city-wide council
2 established pursuant to this section if he or she holds any elective
3 public office or any elective or appointed party position except that of
4 delegate or alternate delegate to a national, state, judicial or other
5 party convention, or member of a county committee.

6 (f) A person who has been convicted of a felony, or has been removed
7 from a city-wide council established pursuant to this section or commu-
8 nity district education council for any of the following shall be perma-
9 nently ineligible for appointment to a city-wide council:

10 (i) an act of malfeasance directly related to his or her service on
11 such city-wide council or community district education council; or

12 (ii) conviction of a crime, if such crime is directly related to his
13 or her service upon such city-wide council or community district educa-
14 tion council.

15 (g) In addition to the conditions enumerated in the public officers
16 law creating a vacancy, a member of a city-wide council established
17 pursuant to this section who refuses or neglects to attend three meet-
18 ings of such city-wide council of which he or she is duly notified,
19 without rendering in writing a good and valid excuse therefor vacates
20 his or her office by refusal to serve. Each absence and any written

21 excuse rendered shall be included within the official written minutes of
22 such meeting. After the third unexcused absence such city-wide council
23 shall declare a vacancy to the chancellor.

24 § 2. Section 2590-c of the education law, as added by chapter 123 of
25 the laws of 2003, is amended to read as follows:

26 § 2590-c. Composition of community district education councils. 1.
27 Each community district shall be governed by a community district educa-
28 tion council. The community councils shall consist of eleven voting
29 members and one non-voting member, as follows:

30 (a) Nine voting members shall be parents whose children are attending
31 a school under the jurisdiction of the community district, or have
32 attended a school under the jurisdiction of the community district with-

33 in the preceding two years, and shall be selected by the presidents and
34 officers of the parents' association or parent-teachers' association.
35 Such members shall serve for a term of two years. Presidents and offi-
36 cers of parents' associations or parent-teachers' associations who are
37 candidates in the selection process pursuant to this section shall not
38 be eligible to cast votes in such selection process. The association
39 shall elect a member to vote in the place of each such president or
40 officer for the purposes of the selection process.

41 (b) Two voting members shall be appointed by the borough presidents
42 corresponding to such district. Such appointees shall be residents of,
43 or own or operate a business in, the district and shall be individuals

44 with extensive business, trade, or education experience and knowledge,
45 who will make a significant contribution to improving education in the
46 district. Such members shall serve for a term of two years and may only
47 be reappointed for one additional two year term.

48 (c) One non-voting member who is a high school senior residing in the
49 district, appointed by the superintendent from among the elected student
50 leadership. Such member shall serve for a one year term.

51 Members shall not be paid a salary or stipend, but shall be reimbursed
52 for all actual and necessary expenses directly related to the duties and
53 responsibilities of the community council.

54 2. For the initial community council, such members must be selected on
55 or before October thirty-first, two thousand three, with terms commenc-
56 ing on December first, two thousand three. Thereafter, commencing in May

A. 8903--A

9

1 of two thousand five, the selection of community council members shall
2 occur on the second Tuesday in May, with terms commencing on the follow-
3 ing July first.

4 3. Each such council shall select one of its voting members to serve
5 as chair.

6 4. Notwithstanding any provisions of law to the contrary, the communi-
7 ty district education council may appoint a secretary, pursuant to the
8 policies of the city board, who shall perform the following functions:
9 (a) prepare meeting notices, agendas and minutes; (b) record and main-
10 tain accounts of proceedings and other council meetings; and (c) prepare
11 briefing materials and other related informational materials for such
12 meetings. Each council shall be responsible for the appointment, super-
13 vision, evaluation and discharge of the secretary.

14 5. No person may serve on more than one community council or on [~~both~~]
15 the city-wide council on special education, the city-wide council on
16 English language learners, or the city-wide council on high schools and
17 a community council. A member of a community council shall be ineligible
18 to be employed by the community council of which he or she is a member,
19 any other community council, the city-wide council on special education,
20 the city-wide council on English language learners, the city-wide coun-
21 cil on high schools, or the city board. No person shall be eligible for
22 membership on a community council if he or she holds any elective public
23 office or any elective or appointed party position except that of dele-
24 gate or alternate delegate to a national, state, judicial or other party

25 convention, or member of a county committee.

26 A person who has been convicted of a felony, or has been removed from
27 a community school board, community district education council, or the
28 city-wide council on special education, the city-wide council on English
29 language learners, or the city-wide council on high schools for any of
30 the following shall be permanently ineligible for appointment to any
31 community district education council: (a) an act of malfeasance directly
32 related to his or her service on [~~such~~] the city-wide council on special
33 education, the city-wide council on English language learners, the city-
34 wide council on high schools, community school board or community
35 district education council; or (b) conviction of a crime, if such crime

36 is directly related to his or her service upon [~~such~~] the city-wide
37 council on special education, the city-wide council on English language
38 learners, the city-wide council on high schools, community school board
39 or community district education council.

40 Any decision rendered by the chancellor or the city board with respect
41 to the eligibility or qualifications of the nominees for community
42 district education councils must be written and made available for
43 public inspection within seven days of its issuance at the office of the
44 chancellor and the city board. Such written decision shall include the
45 factual and legal basis for its issuance and a record of the vote of
46 each board member who participated in the decision, if applicable.

47 6. (a) In addition to the conditions enumerated in the public officers
48 law creating a vacancy, a member of a community district education coun-
49 cil who refuses or neglects to attend three meetings of such council of
50 which he or she is duly notified, without rendering in writing a good
51 and valid excuse therefore vacates his or her office by refusal to
52 serve. Each absence and any written excuse rendered shall be included
53 within the official written minutes of such meeting. After the third
54 unexcused absence the community council shall declare a vacancy to the
55 chancellor.

A. 8903--A

10

1 (b) (1) Vacancies in positions that were not appointed by a borough
2 president shall be filled for an unexpired term by the community
3 district education council after consultation with the presidents' coun-

4 cil or other consultative body representing parents' associations and
5 other educational groups within the district. Recommendations made by
6 such parents and other educational groups shall be submitted in writing
7 and included within the record of the meeting at which the vacancy is
8 filled.

9 (2) If such vacancy results in the council not having at least one
10 member who is a parent of a student who is an English language learner,
11 or results in the council not having at least one member who is a parent
12 of a student with an individualized education program, the community
13 council shall select a parent having such qualifications to fill the
14 vacancy.

15 (c) If the vacancy is not filled by the community council within sixty
16 days after it is declared due to a tie vote for such appointment, the
17 chancellor shall vote with the community council, to break such tie
18 vote. If the community council has failed to fill the vacancy within
19 sixty days after it is declared because of any other reason, the chan-
20 cellor shall order the community council to do so pursuant to section
21 twenty-five hundred ninety-1 of this article.

22 (d) Where a vacancy occurs in a position appointed by a borough presi-
23 dent, the borough president shall appoint a member to serve the remain-
24 der of the unexpired term.

25 7. (a) Each community council shall prepare and submit to the city
26 board a performance report every month. The information provided shall
27 include community council members' attendance records; participation in

28 community council committees and other community council activities;
29 visits to schools; and voting records on major issues before the commu-
30 nity council.

31 (b) The city board shall review and consolidate the performance
32 reports into one comprehensive city district-wide report, which shall be
33 disseminated to the community and the media semiannually.

34 8. The chancellor shall: (a) develop a process to ensure a uniform
35 election process for parent associations and parent-teacher associ-
36 ations. Such process shall ensure uniformity with respect to timing of
37 elections and the structure and size of the body.

38 (b) develop a process for nomination of candidates for community coun-
39 cil membership. Such process will outline in detail the procedure which
40 must be followed to present a name for consideration, ~~[shall prohibit~~

41 ~~officers of any parent association or parent teacher association from~~
42 ~~being nominated,] may include qualifications and prohibitions in addi-~~
43 ~~tion to those outlined in this section and may allow for an interview~~
44 ~~process for nominees.~~

45 (c) develop selection procedures for community council members which
46 shall attempt to ensure membership that reflects a representative cross-
47 section of the communities within the school district and diversity of
48 the student population including those with particular educational
49 needs, shall include consideration of the enrollment figures within each
50 community district and the potential disparity of such enrollment from
51 school to school within the district, and shall ensure that, to the
52 extent possible, a school may have no more than one parent represen-

53 tative on the community council. Such procedures shall ensure that at
54 least one position on the community council is filled by a parent of a
55 student who is an English language learner, and at least one position is
56 filled by a parent of a student with an individualized education

A. 8903--A

11

1 program, and shall allow for the seven remaining positions to be filled
2 by parents who are otherwise eligible.

3 (d) promulgate rules and regulations requiring financial disclosure by
4 the nominees and policies prohibiting political endorsements of and
5 campaign contributions to nominees.

6 (e) beginning in January of each school year and continuing until the
7 date of selection, ensure the distribution of guides to parents in addi-

8 tion to information regarding community council roles, functions, and
9 activities, including upcoming parents' association and parent-teacher
10 association elections, candidate information, and the nature of the
11 selection process.

12 Prior to the adoption of the processes, procedures, rules or regu-
13 lations set forth in this subdivision, the chancellor shall ensure that
14 there is an inclusive public process which allows for sufficient public
15 input from parents and the community including public hearings. All such
16 processes, procedures, rules or regulations must be final in sufficient
17 time to assure for an orderly implementation and notification of such
18 processes, procedures, rules or regulations to allow for full community
19 participation in the nomination and selection processes and procedures.

20 § 3. Subdivision 1 of section 2590-d of the education law, as amended
21 by chapter 123 of the laws of 2003, is amended to read as follows:

22 1. The city board and the chancellor shall prescribe such by-laws and
23 regulations as may be necessary to make effectual the provisions of this
24 chapter and for the conduct of the proceedings of said board consistent
25 with the requirements of this article. The city board by-laws shall
26 include a process by which any member of the city board may request that
27 items be placed on the city board's agenda. Such request may be made at
28 a city board regular public meeting or prior to such meeting. If a
29 member of the city board requests that an item be placed on the agenda
30 at a regular public meeting of the city board, then the chairperson

31 shall respond to the request at such meeting. If a member of the city
32 board requests that an item be placed on the agenda at any time prior to
33 a regular public meeting of the city board, then the chairperson shall
34 respond to the request at any time prior to the subsequent regular
35 public meeting. Said by-laws and regulations shall be published and
36 indexed and revised at least annually. Copies of such by-laws and regu-
37 lations shall be made available for public inspection via the city
38 board's official internet web site, at the offices of the city board,
39 each community council, the office of the commissioner of education, and
40 the legislative library in Albany, and at such other places as the city
41 board may deem proper.

42 § 4. Section 2590-e of the education law is amended by adding two new
43 subdivisions 20 and 21 to read as follows:

44 20. Consult on the selection of a community superintendent pursuant to
45 subdivision thirty of section twenty-five hundred ninety-h of this arti-
46 cle.

47 21. Hold a joint public hearing with the chancellor or deputy chancel-
48 lor, or in the case of a proposed significant change in school utiliza-
49 tion the chancellor or his or her designee, and the impacted school
50 based management team regarding any proposed school closing or signif-
51 icant change in school utilization, including the phase-out, grade
52 reconfiguration, re-siting, or co-location of schools, of any public

53 school located within the community district pursuant to subdivision
54 two-a of section twenty-five hundred ninety-h of this article.

55 § 5. Section 2590-f of the education law, as added by chapter 720 of
56 the laws of 1996, paragraphs (s) and (t) of subdivision 1 and subdivi-

A. 8903--A

12

1 sions 2 and 3 as amended and paragraph (u) of subdivision 1 as added by
2 chapter 123 of the laws of 2003, is amended to read as follows:
3 § 2590-f. Community superintendents. 1. Subject in every case to
4 powers devolved to principals and schools consistent with this article,
5 the community superintendent shall have the following powers and duties
6 as superintendent of schools for the community district, which shall be
7 exercised in a manner to ensure the implementation of all provisions of
8 law, rules and regulations relating to the management of the schools and
9 the delivery of instructional services:
10 (a) to assist district schools in obtaining waivers from state, feder-
11 al and city board regulations where appropriate to promote student
12 achievement and school performance.
13 (b) to delegate any of her or his powers and duties to such subordi-
14 nate officers or employees of her or his community district as she or he
15 deems appropriate, at his or her sole discretion, and to modify or
16 rescind any power and duty so delegated.
17 (c) except for the appointment of supervisors pursuant to paragraph
18 (d) of this subdivision, to appoint, define the duties of, assign,
19 promote and discharge all employees, including teacher-aides, of the
20 community district, and fix their compensation and terms of employment
21 within amounts appropriated therefor and not inconsistent with the
22 provisions of this article and any collective bargaining agreement.
23 (d) to appoint supervisory personnel from candidates screened by a
24 screening committee [including parents, teachers, and school support
25 personnel, who shall be selected and shall operate in a manner
26 prescribed by chancellor's regulations] consistent with regulations of
27 the chancellor establishing a process that promotes parental and staff
28 involvement in the recruitment, screening, interviewing and recommenda-
29 tion of candidates and consistent with qualifications established
30 through chancellor's regulations.
31 (e) to appoint or reject the principal and assistant principal candi-
32 dates screened by screening committees, ~~[in accordance with procedures~~
33 ~~and criteria prescribed by chancellor's regulations, and subject to the~~
34 ~~chancellor's power to reject such appointments pursuant to section twenty~~
35 ~~five hundred ninety-h of this article] consistent with regulations of~~
36 the chancellor establishing a process that promotes parental and staff
37 involvement in the recruitment, screening, interviewing and recommenda-
38 tion of candidates, and after consulting with members of the school
39 based management team. Candidates must meet the requirements of regu-
40 lations of the chancellor establishing educational, managerial, and
41 administrative qualifications, including evaluation of each candidate's
42 record of performance in comparable positions and shall be subject to
43 the chancellor's power to reject such appointments pursuant to section
44 twenty-five hundred ninety-h of this article.
45 (f) to supervise and evaluate, at least annually, the performance of
46 principals for every school in the district with respect to educational
47 effectiveness and school performance, including effectiveness of promot-
48 ing student achievement and parental involvement, developing an effec-
49 tive shared decision-making relationship with the school based manage-
50 ment team, and maintaining school discipline; the community
51 superintendent shall have access to all school records that he or she
52 deems necessary and shall consider comments contained within an assess-
53 ment made by the school based management team, pursuant to subparagraph
54 (vii) of paragraph (b-1) of subdivision fifteen of section twenty-five
55 hundred ninety-h of this article, when carrying out such evaluations.

A. 8903--A

13

1 (g) the authority to transfer or remove principals for persistent
2 educational failure, conflicts of interest, and ethics violations, and
3 to require principals to participate in training and other remedial
4 programs to address identified factors affecting student achievement and

5 school performance, consistent with sections twenty-five hundred nine-
6 ty-h, twenty-five hundred ninety-i and twenty-five hundred ninety-l of
7 this article.

8 (h) to review, modify and approve school-based budgets proposed by the
9 school, pursuant to section twenty-five hundred ninety-r of this
10 article, provided however, that the community superintendent shall only
11 approve a school-based budget proposal after certifying that it is
12 sufficiently aligned with its corresponding school's comprehensive
13 educational plan. The community superintendent shall prescribe the form
14 and manner in which principals must submit written justification to
15 demonstrate that the proposed school-based budget is aligned with the

16 school's comprehensive educational plan, and shall also include a
17 provision allowing for the school based management team to respond to
18 such justification. The community superintendent shall consider the
19 principal's written justification, along with any response provided by
20 the school based management team, prior to making such certification.

21 (h-1) to establish a process that allows for school based management
22 team members, other than the principal, to dispute any decision made by
23 the principal where such team members reach a consensus that the deci-
24 sion is inconsistent with the goals and policies set forth in their
25 school's existing comprehensive educational plan. The community super-

26 intendent shall provide a written response to the school based manage-
27 ment team and the principal that includes the information reviewed and
28 the basis for the community superintendent's decision regarding such
29 dispute.

30 (i) to retain one or more district fiscal officers to monitor and
31 report on schools' expenditures pursuant to the school-based budgets.

32 (j) within the amounts appropriated therefor to administer district
33 minor repair and purchasing funds, and make them available to schools
34 consistent with sections twenty-five hundred ninety-i, twenty-five
35 hundred ninety-r, and subdivisions thirty-six and thirty-seven of
36 section twenty-five hundred ninety-h of this article, for services and
37 supplies provided by the chancellor, the community superintendent, or

38 purchased by the schools, and to provide for minor repairs to all school
39 buildings and other buildings and sites under the district's jurisdic-
40 tion.

41 (k) subject to subdivision three of section twenty-five hundred nine-
42 ty-e of this article and this section, to approve or disapprove matters
43 relating to the instruction of students, including the power to disap-
44 prove school choices with respect to selection of textbooks and other
45 instructional materials.

46 (1) (1) to provide assistance and direct support to parents in access-
47 ing information, addressing concerns and responding to complaints relat-
48 ing to their child's education that cannot be resolved at the school
49 level.

50 (2) to operate administrative offices and similar facilities, includ-

51 ing social centers, and recreational and extracurricular programs, under
52 the district's jurisdiction, and the duty to support the operation of
53 school facilities. The community superintendent shall establish a
54 central office within the district and hire and supervise sufficient
55 staff to directly interact with parents, respond to information
56 requests, receive input and comments, assist the community superinten-

A. 8903--A

14

1 dent in resolving complaints in a timely manner, and work to develop a
 2 cooperative relationship with parents and the school community.

3 (m) subject to regulations or resolutions of the city board, to oper-
 4 ate cafeteria or restaurant services for pupils and teachers and for the

5 use by the community for school related functions and activities and to
 6 furnish meals to the elderly, sixty years of age or older, of the
 7 district. Charges shall be sufficient to meet the direct cost of prepar-
 8 ing and serving such meals, reducible by available reimbursements.

9 (n) to maintain discipline in the educational and other facilities
 10 under the jurisdiction of the district, including the duty to assist the
 11 schools in maintaining discipline.

12 (o) to employ or retain counsel subject to the powers and duties of
 13 the corporation counsel of the city of New York to be the district's
 14 attorney and counsel pursuant to subdivision a of section three hundred
 15 ninety-four of the New York city charter; provided, however, that in
 16 actions or proceedings between community districts or between a communi-

17 ty district and the city board, each community district may be repres-
 18 ented by its own counsel.

19 (p) in compliance with rules and regulations of the commissioner,
 20 promulgated pursuant to section one hundred one-a of this chapter, to
 21 give written notice to the family court pursuant to subdivision three of
 22 section seven hundred fifty-eight-a and subdivision three of section
 23 353.6 of the family court act of the desire of any school under the
 24 jurisdiction of the community district to act in the supervision of
 25 certain juveniles while performing services for the public good.

26 (q) to take all necessary steps to ensure the integrity of community
 27 district operations, consistent with standards, policies, objectives,
 28 and regulations [promulgated by the chancellor and the city board] of

29 the city district.

30 (r) where so authorized by the chancellor, to exercise the
 31 chancellor's powers under subdivision thirty-one of section twenty-five
 32 hundred ninety-h of this article.

33 (s) to provide written notice and other related information described
 34 in [~~paragraph (b) of~~] subdivision [~~four~~] forty-eight of section twenty-
 35 five hundred [~~ninety-e~~] ninety-h of this article to every parent of a
 36 child, including a child with a disability, attending a school under the
 37 jurisdiction of his or her community district education council as
 38 directed by the chancellor.

39 (t) notwithstanding any provisions of law to the contrary, to exercise
 40 all of the duties and responsibilities of the employing board as set
 41 forth in section three thousand twenty-a of this chapter pursuant to a

42 delegation of the chancellor under section twenty-five hundred ninety-h
 43 of this article.

44 (u) to provide relevant data to the community district education coun-
 45 cil to encourage informed and adequate public discussion on student
 46 achievement and the state of each school within the district.

47 (v) to hold at least two public forums within the district, during
 48 each school year, for the purpose of reporting on the district's
 49 performance, including progress made toward achieving the district
 50 comprehensive educational plan goals, discussing plans for improvement,
 51 and receiving parental and community comments and concerns; the communi-
 52 ty superintendent shall ensure that notice for the public forums is

53 posted in a manner to maximize the participation of parents, students
 54 and school personnel and is specifically circulated to members of the
 55 school based management teams, community district education council and
 56 the relevant community boards.

A. 8903--A

15

1 (w) to provide notice of any proposed school closing or significant
 2 change in school utilization, including the phase-out, grade reconfig-
 3 uration, re-siting, or co-location of schools, for any public school
 4 within the community district to all impacted parents, including infor-
 5 mation as to where a copy of the educational impact statement, or
 6 revised educational impact statement if applicable, may be obtained and

7 the date of any hearing on such school closure or significant change in
 8 school utilization pursuant to subdivision two-a of section twenty-five
 9 hundred ninety-h of this article.

10 2. In exercising such powers and duties each community superintendent
 11 shall comply with all applicable provisions of law, by-laws, rules or
 12 regulations, directives or agreements of the chancellor and his or her
 13 community district education council and with the city-wide educational
 14 policies established by the city board and his or her community district
 15 education council, including performance standards addressed to adminis-
 16 tration and educational effectiveness, and any requirements for continu-
 17 ing training and education, embodied in standards, circulars or regu-
 18 lations promulgated by the chancellor provided however, that the

19 chancellor shall ensure that community superintendents are assigned to
 20 tasks predominantly within their own community districts and that in no
 21 event shall community superintendents be assigned any task which would
 22 impair their ability to exercise the powers and duties enumerated within
 23 this section, such as responding to parental comments and concerns,
 24 appointing and evaluating principals, approving school-based budgets,
 25 overseeing educational instruction, providing access to information and
 26 assisting with resolving complaints.

27 3. No person who has served as a member of a community district educa-
 28 tion council may be employed by that board or the community superinten-
 29 dent of that district within a period of three years after the termi-

30 nation of such service unless such person qualifies for the position
 31 pursuant to a competitive examination and applicable provisions of the
 32 civil service law.

33 § 6. Section 2590-g of the education law, as amended by chapter 91 of
 34 the laws of 2002, subdivision 4 as amended by chapter 123 of the laws of
 35 2003, is amended to read as follows:

36 § 2590-g. Powers and duties of the city board. The city board shall
 37 advise the chancellor on matters of policy affecting the welfare of the
 38 city school district and its pupils. The board shall exercise no execu-
 39 tive power and perform no executive or administrative functions. Noth-
 40 ing herein contained shall be construed to require or authorize the
 41 day-to-day supervision or the administration of the operations of any
 42 school within the city school district of the city of New York. The

43 board shall have the power and duty to:

44 1. (a) approve standards, policies, and objectives~~[, and regulations]~~
 45 proposed by the chancellor directly related to educational achievement
 46 and student performance; ~~[and]~~

47 (b) consider and approve any other standards, policies, and objec-
 48 tives~~[, and regulations]~~ as specifically authorized or required by state
 49 or federal law or regulation;

50 (c) approve all regulations proposed by the chancellor or the city
 51 board and any amendments made thereto;

52 (d) approve the educational facilities capital plan, and any amend-
 53 ments requiring city board approval pursuant to section twenty-five
 54 hundred ninety-p of this article, following any applicable hearings

55 conducted by the community district education councils;

A. 8903--A

16

1 (e) approve annual estimates of the total sum of money which it deems
2 necessary for the operation of the city district and the capital budget
3 pursuant to section twenty-five hundred ninety-q of this article;

4 (f) approve the allocation of projected revenues among community
5 districts and their schools pursuant to subdivision a of section twen-
6 ty-five hundred ninety-r of this article and to approve the aggregation
7 of the community district budgets, with a proposed budget for adminis-
8 trative and operational expenditures of the city board and the cancel-

9 lor, following a public hearing pursuant to subdivision f of section
10 twenty-five hundred ninety-r of this article;

11 (g) approve a procurement policy for the city district, and any amend-
12 ments made thereto, developed pursuant to subdivision thirty-six of
13 section twenty-five hundred ninety-h of this article; and

14 (h) approve proposals for all school closures or significant changes
15 in school utilization including the phase-out, grade reconfiguration,
16 re-siting, or co-location of schools, following any hearing pursuant to
17 subdivision two-a of section twenty-five hundred ninety-h of this arti-
18 cle.

19 2. for all purposes, be the government or public employer of all
20 persons appointed or assigned by the city board or the community
21 districts; provided, however, that the chancellor shall have the author-
22 ity to appoint staff pursuant to subdivision forty-one of section twen-
23 ty-five hundred ninety-h of this article;

24 2-a. adopt a policy proposed by the chancellor that promotes the
25 recruitment and retention of a workforce at the city district, community
26 district and school level that considers the diversity of the students
27 attending the public schools within the city district. The city board
28 shall review at a regular public meeting an annual report issued by the
29 chancellor outlining the initiatives taken to enhance diversity and
30 equity in recruitment and retention and the impacts of such initiatives

31 to the workforce at the city district, community district and school
32 level;

33 3. serve as the appeal board as provided in section twenty-five
34 hundred ninety-l of this article, and subject to such powers, duties,
35 and restrictions as were in effect before the effective date of this
36 section;

37 4. subject to the provisions of section twenty-five hundred ninety-i
38 of this article, maintain such jurisdiction over city-wide educational
39 policies governing the special, academic, vocational, and other high
40 schools authorized by this article before the effective date of this
41 section as the respective community district education councils maintain
42 over the schools within their jurisdiction, which shall not be construed
43 to require or authorize the day-to-day supervision or the administration
44 of the operations of such schools.

45 5. ~~[Approve contracts that would significantly impact the provision of~~
46 ~~educational services or programming within the district.] (a) Approve~~
47 ~~any contract awarded by the city district or the community districts~~
48 ~~where:~~

49 (i) such contract was let by a procurement method other than compet-
50 itive sealed bidding pursuant to subdivision thirty-six of section twen-
51 ty-five hundred ninety-h of this article, including but not limited to
52 competitive sealed proposals, or sole source contracts;

53 (ii) such contract provides for technical, consultant or personal
54 services;

55 (iii) the value of such contract exceeds, or projects an annual
56 expenditure exceeding one million dollars; or

A. 8903--A

17

1 (iv) the value of any contracts awarded to a single entity exceeds one
2 million dollars annually;
3 (b) Approve all franchises, revocable consents, and concessions
4 awarded by the city district or the community districts.
5 (c) Notwithstanding paragraphs (a) and (b) of this subdivision, city
6 board approval shall not be required for any contract with the United
7 States General Services Administration or any other federal agency, if
8 the price is lower than the prevailing market price, or the New York
9 state office of general services or any other state agency, if the price
10 is lower than the prevailing market price, or for any contract made
11 directly by an individual school.
12 6. Approve litigation settlements only when such settlement would
13 significantly impact the provision of educational services or program-
14 ming within the district.
15 6-a. Approve by-laws for the city board pursuant to section twenty-
16 five hundred ninety-d of this article.
17 7. All items requiring city board approval shall be by a public vote
18 at a regular public meeting, consistent with the requirements contained
19 within subdivision one of section twenty-five hundred ninety-b of this
20 article, and such items shall not become effective until after such vote
21 occurs except as expressly authorized in subdivision nine of this
22 section.
23 8. (a) Prior to the approval of any proposed item listed in subdivi-
24 sion one of this section, undertake a public review process to afford
25 the public an opportunity to submit comments on the proposed item. Such
26 public review process shall include notice of the item under city board
27 consideration which shall be made available to the public, including via
28 the city board's official internet website, and specifically circulated
29 to all community superintendents, community district education councils,
30 community boards, and school based management teams, at least forty-five
31 days in advance of any city board vote on such item. Notice of the
32 proposed item under city board consideration shall include:
33 (i) a description of the subject, purpose and substance of the
34 proposed item under consideration;
35 (ii) information regarding where the full text of the proposed item
36 may be obtained;
37 (iii) the name, office, address, email and telephone number of a city
38 district representative, knowledgeable on the item under consideration,
39 from whom any information may be obtained concerning such item;
40 (iv) date, time and place of any hearing regarding the proposed item,
41 if applicable;
42 (v) date, time and place of the city board meeting at which the city
43 board will vote on the proposed item; and
44 (vi) information on how to submit written or oral comments regarding
45 the item under consideration.
46 (b) In the event that a proposed item listed in subdivision one of
47 this section is substantially revised at any time following the public
48 notice provided pursuant to paragraph (a) of this subdivision, the city
49 board shall issue a revised public notice. Such revised notice shall be
50 available at least fifteen days in advance of any city board vote on the
51 proposed item, but in no event shall the city board vote on any such
52 item within forty-five days from the initial public notice provided
53 pursuant to paragraph (a) of this subdivision. Revised public notice of
54 the item under city board consideration shall include:
55 (i) a description of the subject, purpose and substance of the revised
56 item under consideration;

A. 8903--A

18

1 (ii) identification of all substantial revisions to the item;
2 (iii) a summary of all public comments received on such item following
3 the initial public notice pursuant to paragraph (a) of this subdivision;
4 (iv) information regarding where the full text of the revised item may
5 be obtained;
6 (v) the name, office, address, email and telephone number of a city
7 district representative, knowledgeable on the item under consideration,
8 from whom any information may be obtained concerning such item;
9 (vi) date, time and place of any hearing regarding the item, if appli-
10 able;
11 (vii) date, time and place of the city board meeting at which the city
12 board will vote on the item; and
13 (viii) information on how to submit written or oral comments regarding
14 the item under consideration.
15 (c) Following the public review process pursuant to paragraph (a) or
16 (b) of this subdivision but prior to voting on any proposed item listed
17 in subdivision one of this section, the city board shall make available
18 to the public, including via the city board's official internet web
19 site, an assessment of all public comments concerning the item under
20 consideration received prior to twenty-four hours before the city board
21 meeting at which such item is subject to a vote. Such assessment shall
22 include:
23 (i) a summary and an analysis of the issues raised and significant
24 alternatives suggested;
25 (ii) a statement of the reasons why any significant alternatives were
26 not incorporated into the proposed item;
27 (iii) a description of any changes made to the proposed item as a
28 result of public comments received; and
29 (iv) information as to where the full text of any approved item may be
30 obtained.
31 9. In the event the city board or the chancellor determines that imme-
32 diat adoption of any item requiring city board approval is necessary
33 for the preservation of student health, safety or general welfare and
34 that compliance with the requirements of subdivision seven or eight of
35 this section would be contrary to the public interest, then such
36 proposed item may be adopted on an emergency basis. The city board or
37 chancellor shall provide written justification for such determination
38 and make such justification publicly available including via the city
39 board's official internet web site. Except as expressly authorized for
40 school closures or significant changes in school utilizations pursuant
41 to paragraph (f) of subdivision two-a of section twenty-five hundred
42 ninety-h of this article, all emergency adoptions shall only remain in
43 effect for sixty days, during such time the city board shall comply with
44 the requirements of this subdivision in order for the adoption of the
45 item to become permanent.
46 10. Respond, at a regular public meeting, to the recommendations
47 raised in the annual reports issued by the city-wide council on special
48 education, the city-wide council on English language learners and the
49 city-wide council on high schools.
50 11. Conduct an annual survey to allow parents, teachers and school
51 personnel to evaluate the performance of the city board and the chancel-
52 lor with regards to city district resources, oversight and curriculum.
53 The results of such survey shall be made publicly available including
54 via the city board's official internet website.
55 12. Provide information, data, estimates and statistics regarding all
56 matters relating to the city district as requested by the director of

1 the independent budget office of the city of New York or the comptroller
2 of the city of New York, in a timely fashion.

3 § 7. Section 2590-h of the education law, as amended by chapter 720 of
4 the laws of 1996, the opening paragraph, subdivisions 16, 17, 18, 29, 36
5 and 37 as amended and subdivisions 16-a, 30, 38-a, 41, 42, 43, 45, 46
6 and 47 as added by chapter 91 of the laws of 2002, paragraph (a) of
7 subdivision 1, subdivisions 2, 9, 11, 13, 15, 31, 38, 39, 40 and 44 as
8 amended and paragraph (b-1) of subdivision 15 as added by chapter 123 of
9 the laws of 2003, subdivision 20 as amended by chapter 100 of the laws
10 of 2003 and paragraph (b) of subdivision 39 and paragraph (c) of subdivi-
11 sion 40 as amended by chapter 285 of the laws of 2007, is amended to
12 read as follows:

13 § 2590-h. Powers and duties of chancellor. The office of chancellor
14 of the city district is hereby continued. Such chancellor shall serve at
15 the pleasure of and be employed by the mayor of the city of New York by
16 contract. The length of such contract shall not exceed by more than two
17 years the term of office of the mayor authorizing such contract. The
18 chancellor shall receive a salary to be fixed by the mayor within the
19 budgetary allocation therefor. He or she shall exercise all his or her
20 powers and duties in a manner not inconsistent with the city-wide educa-
21 tional policies of the city board. The chancellor shall have the
22 following powers and duties as the superintendent of schools and chief
23 executive officer for the city district, which the chancellor shall
24 exercise to promote an equal educational opportunity for all students in

25 the schools of the city district, promote fiscal and educational equity,
26 increase student achievement and school performance and encourage local
27 school-based innovation, including the power and duty to:

28 1. Control and operate:

29 (a) academic and vocational senior high schools until such time as the
30 same may be transferred to the jurisdiction of appropriate community
31 district education councils pursuant to this article;

32 (b) all specialized senior high schools. The special high schools
33 shall include the present schools known as:

34 The Bronx High School of Science, Stuyvesant High School, Brooklyn
35 Technical High School, Fiorello H. LaGuardia High School of Music and
36 the Arts in the borough of Manhattan, and such further schools which the
37 city board may designate from time to time. The special schools shall be

38 permitted to maintain a discovery program in accordance with the law in
39 effect on the date preceding the effective date of this section; admis-
40 sions to the special schools shall be conducted in accordance with the
41 law in effect on the date preceding the effective date of this section;

42 (c) all special education programs and services conducted pursuant to
43 this chapter;

44 (d) subject to the provisions of section twenty-five hundred ninety-i
45 of this article, devolving powers to the schools, city-wide programs for
46 city-wide services to a substantial number of persons from more than one
47 community district, including transportation; food services; payroll and
48 personnel functions, including pension and retirement services; and
49 enforcement of laws and regulations promoting equal opportunity in
50 employment, access to public accommodations and facilities, equal oppor-

51 tunity in education, and preventing and addressing unlawful discrimi-
52 nation; provided, however, that a community district may also operate
53 within its district programs which provide similar services otherwise
54 authorized by this article.

55 2. Establish, control and operate new schools or programs of the types
56 specified in subdivision one of this section, or to discontinue any such

A. 8903--A

20

1 schools and programs as he or she may determine; provided, however, that
2 the chancellor shall consult with the affected community district educa-
3 tion council before:

4 (a) substantially expanding or reducing such an existing school or
5 program within a community district;

6 (b) initially utilizing a community district school or facility for
7 such a school or program;

8 (c) instituting any new program within a community district.

9 2-a. (a) Notwithstanding any other provision to the contrary, prepare
10 an educational impact statement regarding any proposed school closing or
11 significant change in school utilization, including the phase-out, grade
12 reconfiguration, re-siting, or co-location of schools, for any public
13 school located within the city district.

14 (b) Such educational impact statement shall include the following
15 information regarding the proposed school closing or significant change
16 in school utilization:

17 (i) the current and projected pupil enrollment of the affected school,
18 the prospective need for such school building, the ramifications of such

19 school closing or significant change in school utilization upon the
20 community, initial costs and savings resulting from such school closing
21 or significant change in school utilization, the potential disposability
22 of any closed school;

23 (ii) the impacts of the proposed school closing or significant change
24 in school utilization to any affected students;

25 (iii) an outline of any proposed or potential use of the school build-
26 ing for other educational programs or administrative services;

27 (iv) the effect of such school closing or significant change in school
28 utilization on personnel needs, the costs of instruction, adminis-
29 tration, transportation, and other support services;

30 (v) the type, age, and physical condition of such school building,
31 maintenance, and energy costs, recent or planned improvements to such
32 school building, and such building's special features;

33 (vi) the ability of other schools in the affected community district
34 to accommodate pupils following the school closure or significant change
35 in school utilization; and

36 (vii) information regarding such school's academic performance includ-
37 ing whether such school has been identified as a school under registra-
38 tion review or has been identified as a school requiring academic
39 progress, a school in need of improvement, or a school in corrective
40 action or restructuring status.

41 (c) Such educational impact statement shall be made publicly avail-
42 able, including via the city board's official internet website, and a
43 copy shall also be filed with the city board, the impacted community
44 council, community boards, community superintendent, and school based
45 management team at least six months in advance of the first day of
46 school in the succeeding school year.

47 (d) No sooner than thirty days, but no later than forty-five days
48 following the filing of the educational impact statement, the chancellor
49 or deputy chancellor, or in the case of a proposed significant change in
50 school utilization the chancellor or his or her designee, shall hold a

51 joint public hearing with the impacted community council and school
52 based management team, at the school that is subject to the proposed
53 school closing or significant change in school utilization, and shall
54 allow all interested parties an opportunity to present comments or
55 concerns regarding the proposed school closing or significant change in
56 school utilization. The chancellor shall ensure that notice of such

A. 8903--A

21

1 hearing is widely and conspicuously posted in such a manner to maximize
2 the number of affected individuals that receive notice, including
3 providing notice to affected parents and students, and shall also notify

4 members of the community boards and the elected state and local offi-
5 cial who represent the affected community district.

6 (d-1) So long as the revised proposal does not impact any school other
7 than a school that was identified in the initial educational impact
8 statement, the chancellor, after receiving public input, may substan-
9 tially revise the proposed school closing or significant change in
10 school utilization provided that the chancellor shall prepare a revised
11 educational impact statement, in the form prescribed in paragraph (b) of
12 this subdivision, and publish and file such educational impact statement
13 in the same manner as prescribed in paragraph (c) of this subdivision.

14 No sooner than fifteen days following the filing of such revised educa-
15 tional impact statement, the chancellor or deputy chancellor, or in the
16 case of a significant change in school utilization the chancellor or his
17 or her designee, shall hold a joint public hearing with the impacted
18 community council and school based management team, at the school that
19 is subject to the proposed school closing or significant change in
20 school utilization and shall allow all interested parties an opportunity
21 to present comments and concerns regarding such proposal. The chancel-
22 lor shall ensure that notice of such hearing is widely and conspicuously
23 posted in such a manner to maximize the number of affected individuals

24 that receive notice, including providing notice to affected parents and
25 students, and shall also notify members of the community boards and the
26 elected state and local officials who represent the affected community
27 district.

28 (e) Except as otherwise provided in paragraph (f) of this subdivision,
29 all proposed school closings or significant changes in school utiliza-
30 tion shall be approved by the city board pursuant to section twenty-five
31 hundred ninety-g of this article and shall not take effect until all the
32 provisions of this subdivision have been satisfied and the school year
33 in which such city board approval was granted, has ended.

34 (f) In the event that the chancellor determines that a school closing
35 or significant change in school utilization is immediately necessary for
36 the preservation of student health, safety or general welfare, the chan-
37 cellor may temporarily close a public school or adopt a significant
38 change in the school's utilization on an emergency basis. Such emergency
39 school closing or significant change in school utilization shall only
40 remain in effect for six months, during such time the chancellor shall
41 comply with the requirements of this subdivision in order for such
42 school closure or significant change in school utilization to extend
43 beyond the six month period.

44 3. Subject to the approval of the city board, develop a plan to
45 provide for the establishment of comprehensive high schools within the

46 city district so that every community district shall have available to
47 its graduates further education and a comprehensive high school. Such
48 plan may provide for the conversion of academic and vocational high
49 schools and may be amended or modified from time to time.

50 4. Appoint teacher-aides for the schools and programs under his or her
51 jurisdiction within the budgetary allocation therefor.

52 5. Retain jurisdiction over all employees who are required in
53 connection with the performance of duties with respect to the design,
54 construction, operation and maintenance of all school buildings in the
55 city school district. Such employees shall have all rights accorded them
56 under the provisions of the civil service law, including manner of

A. 8903--A

22

1 appointment, classification, promotion, transfer and removal including
2 an opportunity to be heard provided, however, that each custodian shall
3 be responsible for the performance of his or her duties to the principal
4 of the school who shall be responsible to the district superintendent.

5 6. Employ or retain counsel subject to the powers and duties of the
6 corporation counsel of the city of New York to be his or her attorney
7 and counsel pursuant to subdivision a of section three hundred ninety-
8 four of the New York city charter; provided, however, that in actions or
9 proceedings between the city board or the chancellor and one or more
10 community boards, the city board or the chancellor shall be represented
11 by the corporation counsel of the city of New York.

12 7. To continue existing voluntary programs or to establish new
13 programs under which students may choose to attend a public school in
14 another community district.

15 8. Promulgate minimum clear educational standards, curriculum require-
16 ments and frameworks, and mandatory educational objectives applicable to
17 all schools and programs throughout the city district, and examine and
18 evaluate periodically all such schools and programs with respect to

19 (i) compliance with such educational standards and other requirements,
20 and

21 (ii) the educational effectiveness of such schools and programs, in a
22 manner not inconsistent with the policies of the city board.

23 9. Furnish community district education councils and the city board
24 periodically with the results of such examinations and evaluations and
25 to make the same public.

26 10. Require each community superintendent to make an annual report
27 covering all matters relating to schools under the district's jurisdic-
28 tion including, but not limited to, the evaluation of the educational
29 effectiveness of such schools and programs connected therewith.

30 11. Require such community district education council or superinten-
31 dent to make such number of periodic reports as may be necessary to
32 accomplish the purposes of this chapter.

33 13. Perform the following functions throughout the city district;
34 provided, however, that the chancellor and any community district educa-
35 tion council may agree that any such function may be appropriately
36 performed by the community district education council with respect to
37 the schools and programs under its jurisdiction:

38 (a) Technical assistance to community districts and schools;

39 (b) Such warehouse space on a regional basis as he or she determines
40 to be necessary or appropriate after consultation with the community
41 superintendents;

42 (c) Purchasing services on a city-wide, regional or community district
43 basis subject to subdivision thirty-six of this section;

44 (d) Reinforce and foster connections to institutions of higher educa-
45 tion to promote student achievement.

46 14. Develop and furnish pre-service and in-service training programs
47 for principals and other employees throughout the city district. In
48 addition, the chancellor shall prepare and annually update a training
49 plan for participating parents, and school personnel, which shall
50 include, at minimum, such training as may be required for exercise of
51 their responsibilities, full participation and compliance with the
52 provisions of this section. The chancellor shall, in addition, within

53 amounts appropriated, allocate sufficient funds directly and to the
54 superintendents for teacher and principal training to meet identified
55 needs for school improvement.

A. 8903--A

23

1 15. Promote the involvement and appropriate input of all members of
2 the school community pursuant to the provisions of this article, includ-
3 ing parents, teachers, and other school personnel, including:

4 (a) establishing a parents' association or a parent-teachers' associ-
5 ation in each school under the chancellor's jurisdiction; and ensuring
6 that the districts do the same; the chancellor shall ensure that meet-
7 ings of such parents' associations or parent-teachers' associations
8 shall comply with section four hundred fourteen of this chapter;

9 (b) pursuant to a plan prepared in consultation with associations of
10 parents, and representatives of teachers, supervisors, paraprofessionals
11 and other school personnel within the city district, and promulgated no
12 later than January thirty-first, nineteen hundred ninety-eight, (i)
13 taking all necessary steps to ensure that no later than October first,
14 nineteen hundred ninety-nine, the city district and the community
15 districts are in full compliance, and remain in compliance thereafter,
16 with state and federal law and regulations concerning school-based
17 management and shared decision-making, including section 100.11 of the
18 commissioner's regulations, in a manner which balances participation by
19 parents with participation by school personnel in advising in the deci-
20 sions devolved to schools pursuant to sections twenty-five hundred nine-
21 ty-i and twenty-five hundred ninety-r of this article, and (ii) pursuant
22 to such plan providing for appropriate training to any parent and school
23 personnel who participate in the [~~school-based~~] school based management
24 and shared decision-making process;

25 (b-1) school based management teams developed pursuant to paragraph
26 (b) of this subdivision shall possess the following powers and duties:

27 (i) develop an annual school comprehensive educational plan [~~that is~~
28 ~~aligned with~~] and consult on the school-based budget pursuant to section
29 twenty-five hundred ninety-r of this article. Such school comprehensive
30 educational plan shall be developed concurrently with the development of
31 the school-based budget so that it may inform the decision-making proc-

32 ess and result in the alignment of the comprehensive educational plan
33 and the [~~school-based~~] school-based budget for the ensuing school year.
34 Such plan shall be submitted to the [~~district~~] community superintendent
35 along with the principal's written justification demonstrating that the
36 school-based budget proposal is aligned with the school's comprehensive
37 educational plan and the school based management team's response to such
38 justification pursuant to paragraph (h) of subdivision one of section
39 twenty-five hundred ninety-f of this article. In the case of special-
40 ized, academic, vocational, and other high schools that are not under

41 the jurisdiction of a community superintendent, such plan shall be
42 submitted to the chancellor pursuant to subdivision e of section twen-
43 ty-five hundred ninety-r of this article. The chancellor shall ensure
44 that the comprehensive educational plan of every school within the city
45 district is easily accessible and be made available for public
46 inspection including via the city board's official internet website;

47 (ii) hold at least one meeting per month during the school year. Each
48 monthly meeting shall be held at a time that is convenient for the
49 parent representatives;

50 (iii) provide notice of monthly meetings that is consistent with the
51 open meetings law;

52 (iv) have parent members of such teams make recommendations, consist-

53 ent with the chancellor's regulations, on the selection of the school
54 principal and have all members be consulted prior to the appointment of
55 any principal candidate to its school;

A. 8903--A

24

1 (v) undergo initial and ongoing training that will allow its members
2 to carry out their duties effectively; ~~and~~
3 (vi) dispute any decision made by the principal to the community
4 superintendent pursuant to section twenty-five hundred ninety-f of this
5 article where members of the school based management team, other than
6 the principal, reach a consensus that the decision is inconsistent with
7 the goals and policies set forth in the school's existing comprehensive
8 educational plan; and

9 (vii) provide to the community superintendent an annual assessment of
10 the school principal's record of developing an effective shared deci-
11 sion-making relationship with school based management team members; and
12 (c) developing, in consultation with associations of parents in the
13 city district, and implementing no later than October first, nineteen
14 hundred ninety-eight, a parental bill of rights which provides for, at
15 minimum:
16 (i) reasonable access by parents, persons in parental relation and
17 guardians to schools, classrooms, and academic and attendance records of
18 their own children, consistent with federal and state laws, provided
19 that such access does not disrupt or interfere with the regular school
20 process;
21 (ii) the rights of parents, persons in parental relation and guardians
22 to take legal action and appeal the decisions of the school adminis-
23 tration, as authorized by law;
24 (iii) the right of parents, persons in parental relation and guardians
25 to have information on their own child's educational materials;
26 (iv) access to and information about all public meetings, hearings of
27 the chancellor, the city board, the community superintendents, the
28 community district education councils, and the schools; and
29 (v) access to information regarding programs that allow students to
30 apply for admission where appropriate to schools outside a student's own
31 attendance zone.
32 16. Promulgate such rules and regulations as he or she may determine
33 to be necessary or convenient to accomplish the purposes of this act,
34 not inconsistent with the provisions of this article and the city-wide
35 educational policies of the city board.

36 16-a. Create standards, policies, and objectives and promulgate regu-
37 lations directly related to maintaining the internal fiscal integrity of
38 administrative operations by the chancellor, the community districts,
39 and the schools.
40 17. Possess those powers and duties described in section twenty-five
41 hundred fifty-four of this title, the exercise of which shall be in a
42 manner not inconsistent with the provisions of this article and the
43 city-wide educational policies of the city board.
44 18. Possess those powers and duties contained in section nine hundred
45 twelve of this chapter and those provisions of article fifteen of this
46 chapter which relate to non-public schools, those powers and duties
47 contained in section five hundred twenty-two of the New York city char-
48 ter, and those powers and duties contained in article seventy-three of
49 this chapter, the exercise of which shall be in a manner not inconsis-
50 tent with the provisions of this article and the city-wide educational
51 policies of the city board.
52 19. Delegate any of his or her powers and duties to such subordinate
53 officers or employees as he or she deems appropriate and to modify or
54 rescind any power and duty so delegated.
55 20. Ensure compliance with qualifications established for all person-
56 nel employed in the city district, including the taking of fingerprints

A. 8903--A

25

1 as a prerequisite for licensure and/or employment of such personnel.
2 Every set of fingerprints taken pursuant to this subdivision shall be
3 promptly submitted to the division of criminal justice services where it
4 shall be appropriately processed. Furthermore, the division of criminal

5 justice services is authorized to submit the fingerprints to the federal
6 bureau of investigation for a national criminal history record check.

7 21. Perform the functions of the bureau of audit throughout the city
8 district, including ensuring compliance with subdivisions thirty-six and
9 thirty-seven of this section.

10 22. Establish uniform procedures for record keeping, accounting and
11 reporting throughout the city district, including pupil record keeping,
12 accounting and reporting.

13 23. Develop an educational facilities master plan, and revisions ther-
14 eto, as defined in section twenty-five hundred ninety-o of this article.

15 24. Develop and implement a five-year educational facilities capital
16 plan, and amendments thereto, as defined in section twenty-five hundred
17 ninety-p of this article. The chancellor shall also appoint a person,

18 who reports directly to the chancellor or his or her designee, to assist
19 in the development and implementation of such plan and amendments there-
20 to and to oversee the school buildings program.

21 25. On the chancellor's own initiative, or at the request of a commu-
22 nity superintendent, transfer a principal employed by a community school
23 district pursuant to an agreement with the employee organization repres-
24 enting such principals. The chancellor shall establish a procedure for
25 consulting with affected parents to explain any such transfer. Consist-
26 ent with section twenty-five hundred ninety-i of this article, including
27 without limitation subdivision three thereof, and subdivision one there-
28 of with respect to the rights and obligations of a school to which a
29 principal is transferred, in addition to any other law providing for the

30 transfer of principals, the chancellor also may cause the transfer or
31 removal of principals for persistent educational failure, conflicts of
32 interest, and ethics violations, and may require principals to partic-
33 ipate in training and other remedial programs to address identified
34 factors affecting student achievement and school performance.

35 26. Establish educational and experience qualifications and require-
36 ments for all custodial positions including, but not limited to, custo-
37 dians and custodial engineers and develop standards for evaluating the
38 performance of all such individuals, subject to approval of the city
39 board. Such performance standards shall include, but not be limited to:
40 the cleanliness of facilities; adequacy and timeliness of minor repairs;
41 maintenance of good working order of facilities and grounds; general

42 facilities improvement; and emergency services. The chancellor shall
43 promulgate regulations setting forth the respective responsibilities of
44 the district plant manager, which shall include regular consultation and
45 ongoing reports to the community superintendent, and the principal of
46 each school for evaluating the performance of the custodial employees
47 assigned to his or her school, in accordance with such performance stan-
48 dards, and such performance evaluations shall be given dominant weight
49 in any decision for the purposes of: advancement; continued employment;
50 building transfers; and other performance incentives. The responsibility
51 of the principal of each school in the evaluation of custodial employees
52 may be a matter for collective bargaining with collective bargaining
53 representatives for principals.

54 27. Develop Promulgate regulations, in conjunction with each commu-
55 nity superintendent, establishing a plan for providing access to school
56 facilities in each community school district, when not in use for school

A. 8903--A

26

1 purposes, in accordance with the provisions of section four hundred
2 fourteen of this chapter. Such plan shall set forth a reasonable system
3 of fees not to exceed the actual costs and specify that no part of any
4 fee shall directly or indirectly benefit or be deposited into an account
5 which inures to the benefit of the custodians or custodial engineers.

6 29. Promulgate regulations establishing educational, managerial, and
7 administrative qualifications, performance record criteria, and perform-

8 ance standards for the positions of superintendent and principal.

9 30. Select and appoint a community superintendent, in compliance with
10 the qualifications required by subdivision twenty-nine of this section
11 and subject to the provisions of subdivision two of section twenty-five
12 hundred ninety-j of this article, and in consultation with the corre-
13 sponding community district education council, at a salary to be fixed
14 within the budgetary allocation therefor.

15 31. Intervene in any district or school which is persistently failing
16 to achieve educational results and standards approved by the city board
17 or established by the state board of regents, or has failed to improve
18 its educational results and student achievement in accordance with such
19 standards or state or city board requirements, or in any school or

20 district in which there exists, in the chancellor's judgment, a state of
21 uncontrolled or unaddressed violence. The chancellor may, in addition to
22 exercising any other powers authorized by this article, require such
23 school principal, or district as the case may be, to prepare a correc-
24 tive action plan, with a timetable for implementation of steps accepta-
25 ble to the chancellor to reach improvement goals consistent with city
26 board standards and educational results. The chancellor may require the
27 school or district to alter or improve the corrective action plan, or
28 may directly modify the plan. The chancellor shall monitor implementa-
29 tion of the plan, and, if the school or district fails to implement it,
30 may supersede any inconsistent decision of the school principal, commu-
31 nity district education council or community superintendent; assume

32 joint or direct control of the operation of the school or district to
33 implement the corrective action plan; or take any other action author-
34 ized by this article. Any action of the chancellor to supercede an
35 inconsistent decision of the school principal, community district educa-
36 tion council or community superintendent, or to assume joint or direct
37 control of the operation of the school or district pursuant to this
38 subdivision may be appealed to the city board in accordance with section
39 twenty-five hundred ninety-g of this article.

40 32. Appoint a deputy, for each borough of the city of New York,
41 responsible for coordinating and periodically meeting and consulting
42 with the borough president, the chancellor and the community superinten-
43 dents in the borough on borough-specific issues and issues of borough-

44 wide significance, including the provision of services in support of
45 schools and community districts such as transportation, purchasing,
46 capital planning, and coordination with municipal services, and chancel-
47 lor and city board policy with respect to the high schools.

48 33. Require community school board members to participate in training
49 and retraining in order to promote district and school performance and
50 student achievement, as a continuing condition for membership.

51 35. Take all necessary steps to promote the effectiveness and integri-
52 ty of school-based budgeting pursuant to section twenty-five hundred
53 ninety-r of this article, including the obligations imposed by subdivi-
54 sion thirty-seven of this section.

55 36. Develop a procurement policy for the city school district of the
56 city of New York and the community districts and public schools there-

A. 8903--A

27

1 in [~~Such policy shall~~] to ensure the wise and prudent use of public
2 money in the best interest of the taxpayers of the state; guard against
3 favoritism, improvidence, extravagance, fraud, and corruption; and
4 ensure that contracts are awarded consistent with law and on the basis
5 of best value, including, but not limited to, the following criteria:
6 quality, cost and efficiency.

7 (a) Such policy shall specifically include:

8 (i) a competitive sealed bidding process for the awarding of contracts
9 in which sealed bids are publicly solicited and opened and that a

10 contract is awarded to the lowest responsive, responsible bidder;

11 (ii) processes for awarding contracts using alternatives to compet-
12 itive sealed bidding where competitive sealed bidding is not practicable
13 or not advantageous, in which case the most competitive alternative
14 method of procurement, which is appropriate under the circumstances,
15 shall be used consistent with the requirements of subparagraph (vii) of
16 this paragraph;

17 (iii) measures to enhance the ability of minority and women owned
18 business enterprises to compete for contracts and to ensure their mean-
19 ingful participation in the procurement process;

20 (iv) the manner for administering contracts and overseeing the
21 performance of contracts and contractors;

22 (v) standards and procedures to be used in determining whether bidders
23 are responsible;

24 (vi) circumstances under which procurement may be used for the
25 provision of technical, consultant or personal services;

26 (vii) requiring written justification for the basis, including the
27 efficiency, benefit, and necessity, for awarding a contract using
28 procurement methods other than competitive sealed bidding including
29 competitive sealed proposals and sole source contracts, and for awarding
30 technical, consultant, or personal services contracts, franchises, revo-
31 cable consents, or concessions. Such written justification shall be

32 filed with the comptroller of the city of New York along with the corre-
33 sponding contract, franchise, revocable consent, or concession;

34 (viii) maintaining a file for every contract franchise, revocable
35 consent, and concession containing information pertaining to the solici-
36 itation, award and management of every such contract or agreement. Such
37 file shall contain copies of each determination, writing or filing
38 required by this subdivision and shall be open to public inspection with
39 adequate protection for information which is confidential;

40 (ix) a process for the filing of all contracts, franchises, revocable
41 consents, and concessions with the comptroller of the city of New York;

42 (x) a process for emergency procurement in the case of an unforeseen
43 danger to life, safety, property or a necessary service provided that
44 such procurement shall be made with such competition as is practicable
45 under the circumstances and that a written determination of the basis
46 for the emergency procurement shall be required and filed with the comp-
47 troller of the city of New York when such emergency contract is filed
48 with such comptroller; and

49 (xi) procedures for the fair and equitable resolution of contract
50 disputes.

51 (b) Consistent with the provisions of paragraph (a) of this subdivi-
52 sion such policy shall also include: [~~(a)~~] (i) standards for quality,

53 function, and utility of all material goods, supplies, and services
54 purchased by the chancellor, superintendents, or schools; [~~(b) regu-~~
55 ~~lations for the purchase of material goods, supplies, and services by~~
56 ~~the chancellor, the superintendents, and the schools, including clearly~~

A. 8903--A

28

~~1 articulated procedures which require a clear statement of product spec-~~
~~2 ifications, requirements or work to be performed, a documentable process~~
~~3 of soliciting bids, proposals, or other offers, and a balanced and fair~~
~~4 method, established in advance of receipt of offers, for evaluating~~
~~5 offers and awarding contracts; (e)] (ii) regulations which enable super-~~

6 intendents and schools to purchase material goods, supplies, and
7 services directly from vendors or suppliers when such products are
8 available at prices or other terms more economically beneficial for the
9 purposes of the acquiring superintendent or school; and ~~(d)] (iii)~~
10 regulations shall include repair services and building supplies, as
11 defined in such regulations, for expenditures from each district's minor
12 repair and purchasing funds pursuant to section twenty-five hundred
13 ninety-r of this article.

14 (c) The chancellor shall be responsible for certifying that the proce-
15 dural requisites pursuant to this subdivision and section twenty-five
16 hundred ninety-g of this article have been met, prior to the filing any

17 contract awarded by a procurement method other than competitive sealed
18 bidding, or prior to filing any technical, consultant, or personal
19 services contract, franchise, revocable consent, or concession with the
20 comptroller of the city of New York. The corporation counsel for the
21 city of New York shall certify prior to the filing of such contract or
22 agreement with the comptroller of the city of New York, that the city
23 district has legal authority to award each such contract or agreement.

24 (d) (i) No contract, franchise, revocable consent or concession shall
25 be implemented until a copy has been filed with the comptroller of the
26 city of New York and either such comptroller has registered it or thirty

27 days have elapsed from the date of filing, whichever is sooner, unless
28 an objection has been filed pursuant to subparagraph (iii) of this para-
29 graph, or the comptroller of the city of New York has grounds for not
30 registering such contract or agreement under subparagraph (ii) of this
31 paragraph.

32 (ii) Subject to the provisions of subparagraph (iii) of this para-
33 graph, the comptroller of the city of New York shall register such
34 contract or agreement within thirty days unless such comptroller has
35 information indicating that:

36 (1) there remains no unexpended and unapplied balance of the appropri-
37 ation or fund applicable thereto, sufficient to pay the estimated

38 expense of executing such contract or agreement;

39 (2) a certification required pursuant to this paragraph has not been
40 made; or

41 (3) the proposed vendor has been debarred by the city of New York.

42 (iii) The comptroller of the city of New York may, within thirty days
43 of the date of filing of the contract, franchise, revocable consent or
44 concession with his or her office, object in writing to the registration
45 of such contract or agreement, if in such comptroller's judgment there
46 is sufficient reason to believe that there is possible corruption in the
47 letting of such contract or agreement or that the proposed contractor is
48 involved in corrupt activity. Such objection shall be delivered within

49 such thirty day period to the mayor of the city of New York setting
50 forth in detail the grounds for the New York city comptroller's determi-
51 nation. The mayor of the city of New York may require registration of
52 the contract or agreement despite the New York city comptroller's
53 objections if the mayor of the city of New York has responded to such
54 comptroller's objections in writing, indicating:

55 (1) the corrective actions if any, that have been taken or will be
56 taken in response to such comptroller's objections, or

1 (2) the reasons why the mayor of the city of New York disagrees with
2 such comptroller's objections.

3 Such response by the mayor of the city of New York shall not serve as
4 the basis for further objection by the New York city comptroller, and
5 such comptroller shall register the contract, franchise, revocable
6 consent or concession within ten days of receipt of the mayor of the
7 city of New York's response.

8 (e) The requirements of paragraphs (c) and (d) of this subdivision
9 shall not apply to an emergency contract awarded pursuant to subpara-
10 graph (x) of paragraph (a) of this subdivision, provided that the chan-
11 cancellor shall comply with the requirements of paragraphs (c) and (d) of
12 this subdivision as soon as practicable.

13 37. Establish guidelines and a system of internal controls, including

14 internal administrative controls and internal accounting controls, with
15 provisions for internal audits, as such terms are defined in section
16 nine hundred fifty of the executive law. Such system shall also include
17 a system of internal control review designed to identify weaknesses and
18 identify actions to rectify them; a clear and concise statement of the
19 generally applicable management policies and standards made available to
20 each officer and employee relevant to fiscal and expenditure control, in
21 addition to education and training efforts to ensure adequate under-
22 standing of internal control standards and evaluation techniques; and
23 the designation of an internal control officer for each community
24 district, each of whom shall report to the chancellor and the auditor
25 general, to execute a regular internal audit function, which shall oper-

26 ate in accordance with generally accepted governmental auditing stand-
27 ards. The internal auditors for the community districts shall operate in
28 cooperation with the auditor general, appointed by the chancellor, who
29 shall, in addition to the functions of the internal auditors, monitor
30 and conduct random audits of school districts at least once every two
31 years for fraud, waste, and mismanagement. Notwithstanding any
32 provision of state law or state or city regulation, the internal audi-
33 tors, and the auditor general, shall be entitled, upon their request, to
34 all and any documents and materials bearing in their judgment on the
35 finances and cost-effectiveness of the schools and the school districts
36 that is in the possession of the community districts, the schools, or
37 any officer thereof.

38 38. To exercise all of the duties and responsibilities of the employ-
39 ing board as set forth in section three thousand twenty-a of this chap-
40 ter with respect to any member of the teaching or supervisory staff of
41 schools under the jurisdiction of the community district education coun-
42 cils. The chancellor shall exercise all such duties and responsibilities
43 for all community districts or may delegate the exercise of all such
44 duties and responsibilities to all of the community superintendents of
45 the city district.

46 38-a. To exercise all of the duties and responsibilities of the
47 employing board as set forth in section three thousand twenty-a of this
48 chapter with respect to any member of the teaching or supervisory staff
49 of schools which are not covered under subdivision thirty-eight of this
50 section. Provided, however that the city board shall maintain jurisdic-

51 tion over any consequence resulting from an employee waiver of a hear-
52 ing, as provided for in paragraph (d) of subdivision two of section
53 three thousand twenty-a of this chapter.

54 39. (a) Prescribe regulations and by-laws requiring members of the
55 city board, the chancellor, and any other officer or employee in schools
56 and programs under the jurisdiction of the city board and the chancellor

A. 8903--A

30

1 to make annual written disclosure to the chancellor, of the following
2 information:

3 (i) the employment by the city school board or any community district
4 education council of any person related within the third degree of
5 consanguinity or affinity to the person making disclosure, including the
6 employment of any such person for which a two-thirds vote was required

7 under paragraph [e] (e) of subdivision four of section twenty-five
8 hundred ninety-j of this article, with a notation of the date such vote
9 was taken.

10 (ii) the source of any income, reimbursement, gift, or other form of
11 compensation for services rendered, together with a description of such
12 services.

13 (b) The chancellor shall review, at least once annually, compliance
14 with the requirements of subdivisions five and six of section twenty-
15 five hundred ninety-e of this article and regulations or by-laws
16 prescribed in this subdivision. Any community district education council
17 member, community superintendent, or other officer or employee required
18 to make disclosure, who fails to make such disclosure, shall be notified
19 in writing of his or her failure to do so and given thirty days within
20 which to comply.

21 (d) Willful failure to make full and timely disclosure shall consti-
22 tute cause for removal from office of any member of the city board or
23 for any other officer or employee disciplinary action and such other
24 penalty as may be provided by law.

25 (e) Disclosures made pursuant to the requirements of this subdivision
26 and any notification of failure to make disclosures shall be made avail-
27 able for public inspection during regular business hours on regular
28 business days.

29 40. (a) Prescribe regulations and by-laws requiring members of the
30 city board, the chancellor, and, for good cause shown, any other officer
31 or employee in schools and programs under the jurisdiction of the city
32 board and the chancellor, to submit to the chancellor, in the discretion
33 of the chancellor, financial reports for themselves and their spouses.

34 (b) The frequency and period of coverage, the designation of persons
35 to submit such reports by name, title, or income level, or by a combina-
36 tion thereof, and the content of such reports, including minimum dollar
37 amounts, shall be determined by the chancellor, and such reports may
38 include but not necessarily be limited to the following:

39 (i) amount and source of income for services rendered, together with a
40 description of such services;

41 (ii) amount and source of gifts, capital gains, reimbursements for
42 expenditures, and honoraria;

43 (iii) investments in securities and real property;

44 (iv) amount of debts and names of creditors;

45 (v) outstanding loans and other forms of indebtedness due to person
46 reporting or spouse, by name and amounts; and

47 (vi) trusts and other fiduciary relationships and their assets in
48 which a beneficial interest is held.

49 (c) Willful failure to file required financial reports shall consti-
50 tute cause for removal from office of any member of the city board or
51 for any other officer or employee disciplinary action and such other
52 penalty as may be provided by law.

53 41. Appoint and set salaries for staff in non-represented managerial
54 titles.

55 42. (a) To dispose of such personal property used in the schools and
56 other buildings of the city of New York under the charge of the city

A. 8903--A

31

1 board as shall no longer be required for use therein. Such disposition
2 shall be made in the name of the city of New York and for such city.

3 (b) The chancellor may sell, at prices as may be agreed upon, such
4 manufactured articles or other products of any school of the district,

5 day and evening, as may not be utilized by the city board, and all
6 moneys realized by the sale thereof shall be paid into the city treasury
7 and shall at once be appropriated by the city to a special fund to be
8 administered by the city board for such purposes as such board, in its
9 discretion, may determine. All other moneys realized by the sale of
10 personal property shall be paid into the city treasury and shall at once
11 be appropriated by the city to the special school fund of the city board
12 for use in the borough in which the property sold was situated.

13 (c) Such method of disposal shall be deemed not to apply to the dispo-
14 sition of school books pursuant to subdivision forty-three of this
15 section.

16 43. To dispose of, to the best advantage of the city of New York,
17 either by sale or on the basis of money allowance for waste paper, all

18 books delivered to the several public schools of such city that have
19 been discarded either by reason of being obsolete, no longer required by
20 the course of study, worn by long usage, or mutilated by accident. If
21 disposal is made by sale, it shall be to the highest bidder, and the
22 money realized shall be paid into the city treasury and shall at once be
23 appropriated by the city to the special school fund of the city board
24 entitled "supplies". If disposal is made on the basis of money allowance
25 for waste paper, it shall be to the highest bidder. Such discarded books
26 may be disposed of without public advertisement or entry into a formal
27 contract. Should the discarded books be in such condition that no sale
28 or exchange can be made, or should there be reason to believe that such
29 discarded books have become infected through disease among the pupils,

30 or should the superintendent of schools certify that such discarded
31 books contain erroneous, inaccurate, obsolete, or antiquated subject
32 matter, illustrations, maps, charts, or other material, the committee on
33 supplies of the board of education, if such books cannot be sold, given
34 away, or otherwise salvaged as waste paper without danger to the public
35 health, may authorize their destruction by fire, in which event the
36 superintendent of school supplies shall obtain and file in his or her
37 office a certificate that such books have been so destroyed, signed by
38 the principal of the school in which the books are located.

39 44. To provide the proper book or books in which he or she shall cause
40 the class teachers under the direction and supervision of the principal
41 to enter the names, ages, and residences of the pupils attending the

42 school, the name of the parent or guardian of each pupil, and the days
43 on which the pupils shall have attended respectively, and the aggregate
44 attendance of each pupil during the year, and also the day upon which
45 the school shall have been visited by the superintendent of schools or
46 by an associate superintendent of schools or by an assistant superinten-
47 dent, or by members of the city board, or by members of the community
48 district education council, or by any of them, which entry shall be
49 verified by such oath or affirmation of the principal as may be
50 prescribed by the chancellor. Such books shall be preserved as the prop-
51 erty of the chancellor and shall at all times be open to inspection by
52 members of the city board, by members of the community councils and by
53 the superintendent of schools, or by any associate superintendent of

54 schools, or by the assistant superintendents.

55 45. Make rules and regulations for the conduct, operation, and mainte-
56 nance of extra classroom activities and for the safeguarding, account-

A. 8903--A

32

1 ing, and audit of all moneys received and derived therefrom. In the case
2 of any extra classroom activity as it shall deem proper, and notwith-
3 standing the provisions of section twenty-five hundred thirty of this
4 title, it may direct that the moneys received or derived from the
5 conduct, operation, or maintenance of such an extra classroom activity
6 be deposited with the auditor, who in such event shall be the treasurer
7 of such an extra classroom activity, the moneys of which are required to
8 be so deposited. In the procurement of articles and services for the

9 conduct, operation, and maintenance of a cafeteria or restaurant
10 service, the chancellor shall be subject to applicable provisions of
11 law, except that said chancellor need not have duly advertised for esti-
12 mates in order to contract for such articles or services in an amount
13 exceeding one thousand dollars. The chancellor shall also have power to
14 assign any officers or employees to perform such duties as he or she may
15 prescribe in connection with an extra classroom activity and to desig-
16 nate such officers and employees when so assigned from whom a bond shall
17 be required for faithful performance of their duties and to fix the sum
18 in which each such bond shall be given.

19 46. To maintain, through such representatives as he or she may desig-
20 nate, an effective visitation and inspection of all schools and classes

21 maintained in institutions controlled by the department of correction of
22 the city of New York.

23 47. To assign, in his or her discretion, one or more employees of the
24 city board to serve as trial examiner with power to conduct investi-
25 gations and hearings on behalf of the chancellor. Each trial examiner
26 shall report the result of any such investigation or hearing to the
27 chancellor.

28 48. To hold a public meeting in each community district, in conjunc-
29 tion with the community district education council, during a two year
30 period, beginning with the two thousand nine--two thousand ten school
31 year, in order to report on public school finances, student performance,
32 and educational goals and priorities of the city district and to receive

33 and respond to public comments and concerns. The chancellor shall direct
34 the community superintendent to provide public notice of such meeting in
35 order to maximize the participation of parents, students, and all other
36 interested parties.

37 49. To provide information, data, estimates and statistics regarding
38 all matters relating to the city district as requested by the director
39 of the independent budget office of the city of New York or the comp-
40 troller of the city of New York, in a timely fashion.

41 50. To issue an annual report on the participation of minority and
42 women owned business enterprises in the city district's procurement
43 process including the number of contracts awarded to minority and women

44 owned business enterprises, the percent of contracts awarded to minority
45 and women owned business enterprises of the total number of all city
46 district contracts, the aggregate value of all contracts awarded to
47 minority and women owned business enterprises, and the percent of the
48 aggregate value of contracts awarded to minority and women owned busi-
49 ness enterprises of the total aggregate value of all city district
50 contracts.

51 51. Propose a policy for city board approval that promotes the
52 recruitment and retention of a workforce at the city district, community
53 district, and school level that considers the diversity of the students
54 attending the public schools within the city district. The chancellor

55 shall issue an annual report outlining the initiatives taken to enhance
56 diversity and equity in recruitment and retention and the impacts of

A. 8903--A

33

1 such initiatives to the workforce at the city district, community
 2 district and school level.

3 § 8. Section 2590-i of the education law, as added by chapter 720 of
 4 the laws of 1996, paragraph (c) of subdivision 2 as amended by chapter
 5 91 of the laws of 2002, is amended to read as follows:

6 § 2590-i. Powers and duties of schools; principals; provisions for the
 7 transfer of jurisdiction of high schools. 1. The principal shall be the
 8 administrative and instructional leader of the school. Subject to the
 9 regulations of the chancellor and applicable collective bargaining

10 agreements and obligations, the principal shall be responsible for the
 11 day to day operation of the school and shall carry out these duties in
 12 consultation with parents, teachers and other staff, and the school
 13 based management team pursuant to section twenty-five hundred ninety-h
 14 of this article including:

15 (a) promote an equal educational opportunity for students in the
 16 school,

17 (b) subject to school-based budgeting pursuant to section twenty-five
 18 hundred ninety-r of this article,

19 (c) subject to collective bargaining obligations and agreements, the
 20 budget applicable to the school, and the other provisions of this arti-
 21 cle including section twenty-five hundred ninety-j of this article, to
 22 make recommendation on staff selection, including through the establish-

23 ment of appropriate objective criteria consistent with chancellor's
 24 regulations for filling vacancies based upon the school's instructional
 25 and facility needs,

26 (d) subject to the standards and assessments promulgated by the chan-
 27 cellor, to develop school-based curricula and syllabi for instruction,
 28 and to address other matters relating to the instruction of students,
 29 including the selection of texts from lists approved by the chancellor
 30 and instructional materials, consistent with regulations of the commis-
 31 sioner, and subject to the approval of the superintendent, or chancellor
 32 in the case of schools under the jurisdiction of the city board,

33 (e) subject to the approval of the superintendent, or, where appropri-
 34 ate, the chancellor and within the limits of funds made available there-
 35 for, to enhance teacher and staff development relevant to increasing

36 student achievement, support extended day programs, school reform
 37 programs, and pupil-support services,

38 (f) enhance pupil support services by coordinating related programs,

39 (g) to make or arrange for minor repairs as delegated by the chancel-
 40 lor or superintendent pursuant to regulations of the chancellor, or as
 41 otherwise authorized by law subject to subdivisions thirty-six and thir-
 42 ty-seven of section twenty-five hundred ninety-h of this article,

43 (h) subject to subdivisions thirty-six and thirty-seven of section
 44 twenty-five hundred ~~nine-h~~ ninety-h of this article, identifying and
 45 purchasing equipment and supplies that can be purchased for less than if
 46 purchased through purchasing arrangements entered into through the city
 47 board, the chancellor or the superintendent,

48 (i) to manage and operate the school building and other facilities
 49 under its jurisdiction.

50 2. (a) The principal may be removed or transferred by the superinten-
 51 dent or the chancellor for persistent educational failure of the school
 52 or other cause. Removals may be caused pursuant to section three thou-
 53 sand twenty-a of this chapter if applicable. Transfers may be caused
 54 pursuant to subdivision twenty-five of section twenty-five hundred nine-
 55 ty-h of this article. Any such removal or transfer may be appealed to
 56 the city board, during which time the superintendent may appoint an

A. 8903--A

34

1 acting principal subject to the approval of the chancellor. Provided
2 however that such appointee must meet qualifications pursuant to para-

3 graph ~~(d)~~ (c) of this subdivision. Persistent educational failure of
4 the school shall be defined in regulations of the chancellor to include
5 a pattern of poor or declining achievement; a pattern of poor or declin-
6 ing attendance; disruption or violence; and continuing failure to meet
7 chancellor's performance standards or other standards.

8 (b) The principal may be required by the chancellor or the superinten-
9 dent to participate in training or other forms of staff development or
10 to address identified areas of educational need and promote student
11 achievement and school performance.

12 (c) Principals shall be selected consistent with regulations of the
13 chancellor establishing a process that promotes parental and staff
14 involvement in the recruitment, screening, interviewing and recommenda-

15 tion of candidates. Candidates must meet the requirements of regu-
16 lations of the chancellor establishing educational, managerial, and
17 administrative qualifications, including evaluation of each candidate's
18 record of performance in comparable positions. In the case of schools
19 under the jurisdiction of the community districts, a candidate approved
20 by a community superintendent pursuant to paragraph (e) of subdivision
21 one of section twenty-five hundred ninety-f of this article may nonethe-
22 less, before assuming the position, be rejected by the chancellor for
23 cause. In the case of schools not under the jurisdiction of the commu-
24 nity districts, the chancellor shall additionally consult with members
25 of the school based management team prior to appointing a principal

26 candidate to any such school.

27 3. Provisions for transfer of jurisdiction of high schools. Pursuant
28 to regulations of the chancellor approved by the city board, any high
29 school, other than a special senior academic or vocational high school
30 of city-wide competitive admission, may be transferred from the juris-
31 diction of the city board to the jurisdiction of the community district
32 in which it is located, or from such community district to the city
33 board, upon the consent of the chancellor and the community superinten-
34 dent. In such event, the chancellor and the superintendent shall prompt-
35 ly take all necessary steps to effectuate the transfer.

36 § 9. Paragraph b of subdivision 3 of section 2590-p of the education
37 law, as amended by chapter 123 of the laws of 2003, is amended to read
38 as follows:

39 b. Commencing on November first, nineteen hundred ninety-three, and
40 every five years thereafter, the chancellor shall submit a proposed
41 five-year educational facilities capital plan to take effect on the
42 succeeding July first to each community district education council,
43 which shall conduct a public hearing and shall prepare and submit recom-
44 mendations to the chancellor on or before January first of the ensuing
45 year with respect to matters in the plan that involve that school
46 district. The chancellor shall consider the recommendations received
47 from the community district education councils, and, on or before Febru-
48 ary first of such year, shall submit a final proposed five-year educa-
49 tional facilities capital plan to the city board for its approval pursu-
50 ant to paragraph (d) of subdivision one of section twenty-five hundred

51 ninety-g of this article. ~~[On or before March first of such year, the~~
52 ~~city board shall approve the five year educational facilities capital~~
53 ~~plan submitted by the chancellor.]~~

54 § 10. Section 2590-r of the education law, as added by chapter 720 of
55 the laws of 1996, is amended to read as follows:

A. 8903--A

35

1 § 2590-r. School based budgeting and expenditure reporting. The chan-
2 cellor shall, in consultation with the city board and community district
3 superintendents, establish in regulations a comprehensive process of
4 school-based budgeting and expenditure reporting no later than November
5 first, nineteen hundred ninety-eight. Notwithstanding any provision of
6 section twenty-five hundred ninety-q of this article to the contrary,

7 such regulations shall include provisions for:

8 a. the allocation of projected revenues among community districts and
9 their schools on the basis of objective formulae developed by the chan-
10 cellor, after consultation with the community ~~[boards]~~ councils, commu-
11 nity superintendents and the mayor, and approved by the city board, such
12 formulae shall reflect the relative educational needs of the community
13 districts and their schools to the maximum extent feasible;

14 b. (i) following release of the executive budget of the city of New
15 York by the mayor of the city of New York, the chancellor to inform the
16 principal of each school of that school's preliminary budget allocation,
17 and the principal [of each school] to propose a school-based [expendi-

18 ture] budget, after consulting with members of the school based manage-
19 ment team and soliciting input pursuant to [section] sections twenty-
20 five hundred ninety-h, and twenty-five hundred ninety-i of this article
21 on budget priorities from all members of the school community;

22 (ii) for schools under the jurisdiction of a community superintendent,
23 the principal shall be required to provide written justification, in a
24 form and manner prescribed by the community superintendent pursuant to
25 paragraph (h) of subdivision one of section twenty-five hundred ninety-f
26 of this article, to demonstrate that the school-based budget proposal is
27 aligned with the school's comprehensive educational plan;

28 c. the review, modification ~~[and]~~, approval and certification of the
29 proposed school budget ~~[by the]~~ for schools under the jurisdiction of a
30 community superintendent pursuant to paragraph (h) of subdivision one of
31 section twenty-five hundred ninety-f of this article;

32 d. within amounts estimated by the chancellor, the aggregation of the
33 proposed school-based budgets, as modified and approved by the community
34 superintendent, with a proposed budget for the administrative and opera-
35 tional expenses of the community superintendent and community ~~[board]~~
36 council, as developed by the community superintendent, for submission to
37 the chancellor;

38 e. the chancellor to develop a school-based budgeting process for

39 schools under his or her jurisdiction consistent with this section which
40 shall require that: (i) each principal provide written justification
41 demonstrating that the school-based budget is aligned with such school's
42 comprehensive educational plan; (ii) the school based management team
43 submit comments regarding such justification; and (iii) the chancellor
44 certify that the school-based budget is sufficiently aligned with such
45 school's comprehensive educational plan after reviewing the principal's
46 justification and the school based management team's comments;

47 f. the aggregation of the community district budgets, as modified and
48 approved by the chancellor, with a proposed budget for administrative
49 and operational expenditures of the city board and the chancellor, as

50 prepared by the chancellor, for submission to and adoption by the city
51 board after a public hearing;

52 g. after final adoption of the budget for the city district by the
53 mayor and city council, a process of distributing any reductions or
54 increases required by such adoption in an equitable manner which consid-
55 ers the relative needs of community districts and schools to the maximum
56 extent feasible and for modifying the proposed budget accordingly. Such

A. 8903--A

36

1 process shall include an analysis of the relative funding levels of the
 2 state, the city, the federal government, and other sources of funds; a
 3 comparison of the level of such funding against previous years' total
 4 appropriations and actual expenditures; and an analysis of the distrib-
 5 ution of funds;

6 h. a comprehensive system of public reporting on the final enacted
 7 budget including the levels of appropriation provided by the city, the
 8 state and the federal government with a comparison of the level of such
 9 funding against previous years' totals, and an explanation of the final
 10 budget;

11 i. procedures for schools, superintendents and the chancellor to
 12 modify and reallocate monies in the enacted budget;

13 j. a uniform system of budget requests, reports and appropriations.
 14 Such units of appropriation shall include (i) such compensation and
 15 benefits for staff; (ii) instruction and for pupil services, including
 16 costs for purchases, library services, instructional materials, and all
 17 other school-based instructional and instructional support costs attrib-
 18 utable to other than personal services; (iii) administrative and non-in-

19 structural cost and (iv) extra-curricular activities;

20 k. the provision of appropriate technical support and training to
 21 school personnel, parents and other participants in school-based budget-
 22 ing;

23 l. a comprehensive planning and monitoring process to promote the
 24 implementation of school-based budgeting;

25 m. an annual update of a capital plan by the superintendent with
 26 participation of principals and schools, addressing health and safety,
 27 maintenance, capacity and technology; and

28 n. a collaborative school-based planning process involving parents,
 29 teachers, other school personnel and, where appropriate, students to
 30 effectuate the purposes of this section.

31 § 11. The education law is amended by adding two new sections 2590-t
 32 and 2590-u to read as follows:

33 § 2590-t. New York city comptroller audits. The comptroller of the
 34 city of New York shall have the authority to conduct operational and
 35 programmatic audits, in addition to financial audits, of the city
 36 district to the same extent that such comptroller has such authority for
 37 agencies of the city of New York.

38 § 2590-u. New York city independent budget office reports. 1. The
 39 independent budget office of the city of New York shall be authorized to
 40 provide analysis and issue public reports regarding financial and educa-
 41 tional matters of the city district, to enhance official and public
 42 understanding of such matters including but not limited to:

43 (a) student graduation and dropout data;

44 (b) student enrollment projections;

45 (c) school utilization, class sizes and pupil-to-teacher ratios;

46 (d) student assessment data;

47 (e) the delivery of services to students who are in bilingual or
 48 English as a second language programs;

49 (f) the delivery of services to students with disabilities;

50 (g) the utilization of federal funds including funds pursuant to title
 51 I of the Elementary and Secondary Education Act of nineteen hundred
 52 sixty-five, as amended, directed at parental involvement; and

53 (h) matters relating to city district finances.

54 2. In addition to the appropriation available pursuant to section two
 55 hundred fifty-nine of the New York city charter, the city of New York

56 shall appropriate during each fiscal year an amount to the independent

A. 8903--A

37

1 budget office of the city of New York not less than two and one-half per
2 centum of the appropriations available to pay for the expenses of the
3 office of management and budget of the city of New York during each
4 fiscal year, to carry out the duties and functions assigned in this
5 subdivision.

6 3. The director of the independent budget office of the city of New
7 York shall be authorized to secure such information, data, estimates and
8 statistics from the city board and the chancellor as such director
9 determines to be necessary for the performance of the functions and

10 duties of such office, and the city board and the chancellor shall
11 provide such information, to the extent that it is available, in a time-
12 ly fashion. The director of the independent budget office of the city of
13 New York shall not be entitled to obtain records which are protected by
14 the privileges for attorney-client communications, attorney work prod-
15 uct, and material prepared for litigation.

16 4. The director of the independent budget office of the city of New
17 York shall ensure that such office uses up-to-date appropriate and
18 professionally accepted methodologies in producing annual data reports
19 related to the city district and that such methodologies used are iden-
20 tified in such reports.

21 § 12. Paragraph (c) of subdivision 1 of section 414 of the education
22 law, as amended by chapter 257 of the laws of 1976, is amended to read
23 as follows:

24 (c) For holding social, civic and recreational meetings and enter-
25 tainments, and other uses pertaining to the welfare of the community;
26 but such meetings, entertainment and uses shall be non-exclusive and
27 shall be open to the general public. Civic meetings shall include, but
28 not be limited to, meetings of parent associations and parent-teacher
29 associations.

30 § 13. Section 19 of chapter 738 of the laws of 1988, amending the
31 administrative code of the city of New York, the public authorities law
32 and other laws relating to the New York city school construction author-
33 ity, as amended by chapter 134 of the laws of 2004, is amended to read

34 as follows:

35 § 19. This act shall take effect immediately, provided, however, that
36 the provisions of subdivision 6 of section 209 of the civil service law,
37 as added by section four of this act, shall expire and be deemed
38 repealed on and after June 30, 1995, and further provided that the
39 provisions of section 1735 of the public authorities law, as added by
40 section fourteen of this act, shall expire and be deemed repealed on
41 June 30, ~~2009~~ 2014.

42 § 14. Subdivision 1 of section 1735 of the public authorities law, as
43 amended by chapter 410 of the laws of 1999, is amended to read as
44 follows:

45 1. Notwithstanding the provisions of paragraph b of subdivision one of
46 section seventeen hundred thirty-four of this title, the award of
47 construction contracts by the authority between July first, nineteen

48 hundred eighty-nine and June thirtieth, two thousand ~~two~~ fourteen,
49 shall not be subject to the provisions of section one hundred one of the
50 general municipal law.

51 § 15. Section 34 of chapter 91 of the laws of 2002 amending the educa-
52 tion law and other laws relating to the reorganization of the New York
53 city school construction authority, board of education and community
54 boards, as amended by chapter 123 of the laws of 2003, is amended to
55 read as follows:

A. 8903--A

38

1 § 34. This act shall take effect July 1, 2002; provided, that sections
2 one through twenty, twenty-four, and twenty-six through thirty of this
3 act shall expire and be deemed repealed June 30, [~~2009~~] 2015; provided,

4 further, that notwithstanding any provision of article 5 of the general
5 construction law, on June 30, [~~2009~~] 2015 the provisions of subdivisions
6 3, 5, and 8, paragraph b of subdivision 13, subdivision 14, paragraphs
7 b, d, and e of subdivision 15, and subdivisions 17 and 21 of section
8 2554 of the education law as repealed by section three of this act,
9 subdivision 1 of section 2590-b of the education law as repealed by
10 section six of this act, paragraph (a) of subdivision 2 of section
11 2590-b of the education law as repealed by section seven of this act,
12 section 2590-c of the education law as repealed by section eight of this
13 act, paragraph c of subdivision 2 of section 2590-d of the education law
14 as repealed by section twenty-six of this act, subdivision 1 of section
15 2590-e of the education law as repealed by section twenty-seven of this

16 act, subdivision 28 of section 2590-h of the education law as repealed
17 by section twenty-eight of this act, subdivision 30 of section 2590-h of
18 the education law as repealed by section twenty-nine of this act, subdivi-
19 sion 30-a of section 2590-h of the education law as repealed by
20 section thirty of this act shall be revived and be read as such
21 provisions existed in law on the date immediately preceding the effec-
22 tive date of this act; provided, however, that sections seven and eight
23 of this act shall take effect on November 30, 2003; provided further
24 that the amendments to subdivision 25 of section 2554 of the education
25 law made by section two of this act shall be subject to the expiration
26 and reversion of such subdivision pursuant to section 12 of chapter 147
27 of the laws of 2001, as amended, when upon such date the provisions of

28 section four of this act shall take effect.

29 § 16. Severability. If any clause, sentence, paragraph, section or
30 part of this act shall be adjudged by any court of competent jurisdic-
31 tion to be invalid and after exhaustion of all further judicial review,
32 the judgment shall not affect, impair or invalidate the remainder there-
33 of, but shall be confined in its operation to the clause, sentence,
34 paragraph, section or part of this act directly involved in the contro-
35 versy in which the judgment shall have been rendered.

36 § 17. This act shall take effect immediately, except that if this act
37 shall have become a law on or after June 30, 2009, this act shall take
38 effect immediately and shall be deemed to have been in full force and
39 effect on and after June 30, 2009; provided that:

40 1. sections one, two, three, four, five, six, seven, eight, nine, ten,
41 eleven and twelve of this act shall take effect June 30, 2009;

42 2. the amendments to section 2590-b of the education law made by
43 section one of this act shall not affect the expiration or repeal of
44 certain provisions of such section and shall expire and be deemed
45 repealed therewith;

46 3. the amendments to section 2590-c of the education law made by
47 section two of this act shall not affect the repeal of such section and
48 shall be deemed repealed therewith;

49 4. the amendments to subdivision 1 of section 2590-d of the education
50 law made by section three of this act shall not affect the expiration of
51 such section and shall be deemed to expire therewith;

52 5. the amendments to section 2590-e of the education law made by
53 section four of this act shall not affect the repeal of such section and
54 shall expire and be deemed repealed therewith;

55 6. the amendments to paragraphs (s) and (t) of subdivision 1 and
56 subdivisions 2 and 3 of section 2590-f of the education law made by

A. 8903--A

39

1 section five of this act shall not affect the expiration and reversion
2 of such provisions and shall expire and be deemed repealed therewith;
3 provided further that the amendments to paragraph (u) of subdivision 1
4 of section 2590-f of the education law made by section five of this act
5 shall not affect the repeal of such paragraph and shall expire and be
6 deemed repealed therewith;

7 7. the amendments to section 2590-g of the education law made by
8 section six of this act shall not affect the expiration and reversion of
9 such section and shall expire and be deemed repealed therewith;

10 8. the amendments to section 2590-h of the education law made by
11 section seven of this act shall not affect the expiration and repeal of
12 certain provisions of such section and shall expire and be deemed
13 repealed therewith;

14 9. the amendments to paragraph (c) of subdivision 2 of section 2590-i
15 of the education law made by section eight of this act shall not affect
16 the expiration and reversion of such paragraph and shall expire and be
17 deemed repealed therewith;

18 10. the amendments to subdivision 3 of section 2590-p of the education
19 law made by section nine of this act shall not affect the expiration and
20 reversion of such subdivision and shall expire and be deemed repealed
21 therewith;

22 11. the amendments to section 1735 of the public authorities law made
23 by section thirteen of this act shall not affect the repeal of such

24 section and shall be deemed repealed therewith; and

25 12. any provision in sections one, two, three, four, five, six, seven,
26 eight, nine, ten and eleven of this act not otherwise set to expire
27 pursuant to section 34 of chapter 91 of the laws of 2002, as amended, or
28 section 17 of chapter 123 of the laws of 2003, as amended, shall expire
29 and be deemed repealed June 30, 2015.