



Community District Education Council 26

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Website: www.cdec26.org				

RESOLUTION OF COMMUNITY DISTRICT EDUCATION COUNCIL 26
WITH REGARD TO THE MARCH 2009 PROPOSED AMENDMENT OF CHANCELLOR'S
REGULATION A-655

WHEREAS, the Chancellor of the New York City Department of Education (the "Chancellor"), in December 2007, amended Chancellor's Regulation A-655 (adopted on December 4, 2007) and such amendment revoked the power of School Leadership Teams ("SLTs") to "develop an annual school comprehensive educational plan ("CEP") that is aligned with the school based budget."

WHEREAS, a parent, of a child attending a New York City public school, named Marie Pollicino filed an appeal to the New York State Commissioner of Education (the "Commissioner"), under Section 310 of the New York State Education Law, challenging this change, as well as other changes made by the amended regulation, and challenging the manner in which the changes were made as being in violation of New York State Education Law Sections 2590(h)(15)(b), 2590(h)(15)(b-1), and 2590-r(n) and Section 100.11(b) of the Regulations of the Commissioner.

WHEREAS, Community District Education Council 26 ("CDEC26"), the United Federation of Teachers (the "UFT"), and an SLT member named Melvin L. Meer made motions to intervene in the appeal and permission to intervene was granted to these parties by the Commissioner, with the appeal then being titled, Appeal of MARIE POLLICINO, COMMUNITY DISTRICT EDUCATION COUNCIL 26, UNITED FEDERATION OF TEACHERS and MELVIN L. MEER from action of the New York City Department of Education and Joel I. Klein, Chancellor, regarding issuance of a Chancellor's regulation ("Pollicino v Klein").

WHEREAS, the Commissioner ruled, in his decision in the Pollicino v Klein matter, that section of the amended Chancellor's Regulation A-655 that "gives principals final decision making authority over the CEP . . . must be revised" as it violated New York State Education Law Section 2590(h)(15)(b-1) by stripping the SLT of its "basic, statutorily mandated authority and allow[ing] the principal to make the final determination on the CEP, thus allowing the principal to override the judgment of an SLT."

WHEREAS, the Commissioner, in his decision in the Pollicino v Klein matter, also ordered the New York City Department of Education ("NYC DOE") and the Chancellor to "revise the language of Chancellor's Regulation A-655, the New York City Department of Education's Plan for the Participation

of Parents, Teachers and Administrators in School-Based Planning and Shared Decision-Making (the "Plan"), in accordance with this decision."

WHEREAS, the Chancellor, as a result of the decision in the Pollicino v Klein matter, has once again amended Regulation A-655 as of March 4, 2009 (the "March 2009 A-655") and has requested that all Community District Superintendents 1) review the proposed revisions, 2) meet with their District Leadership Teams ("DLTs") to discuss and receive comments on the revisions and seek the DLT's endorsement of the proposed revisions, and 3) approve or disapprove the amended regulation.

WHEREAS, the March 2009 A-655 states 1) "it is recommended that SLTs use consensus-based decision process as their primary means of making decisions," 2) "when a team has made every effort to resolve an issue and members cannot reach agreement, the team should seek assistance from designated OFEA district engagement staff . . . or OFEA borough engagement staff . . .," 3) "if the designated OFEA staff is unable to resolve such issues to the satisfaction of team members, team members may send a written request for assistance to the DLT," and 4) "if the SLT, after receiving assistance from OFEA staff and the DLT, still cannot reach agreement on the CEP, then the principal will make the final determination."

WHEREAS, the word "Consensus" is commonly defined to mean a unanimous agreement among the members of a group on a particular issue, a "consensus-based decision making process," as called for by the March 2009 A-655 effectively allows a single member of an SLT to prevent a decision from being reached.

WHEREAS, a school's principal is a mandatory member of a school's SLT and the March 2009 A-655 does not even require a principal to deal with the SLT on a "good faith" basis or accept or consider the advise of designated OFEA staff or the DLT on a "good faith" basis, the March 2009 A-655, in effect, would allow a school principal to prevent an agreement by the SLT on a school's CEP, to ignore the advice of the designated OFEA staff and the DLT and, finally, to exercise his or her power to "make the final determination" on the CEP, completely undermining the SLT's "statutorily mandated authority."

WHEREAS, the Chancellor, if he believes that the Commissioner's decision in the Pollicino v Klein matter allows for a regulation that gives the principal the power to make a final determination on a CEP only in cases where the SLT does not reach consensus, is mistaken, as the decision simply rejected the Chancellor's argument, that the December 2007 Amended A-655 only gave principals the final say when the SLT failed to reach consensus, and did not rule that a regulation that gave the principal the final determination on the CEP under these limited circumstances would, in fact, be legal.

WHEREAS, the members of CDEC 26, as well as the attorney that represented CDEC 26 in the Pollicino v Klein matter, believe that the March 2009 A-655 violates New York State Education Law Sections 2590(h)(15)(b), 2590(h)(15)(b-1), and 2590-r(n) and the decision of the Commissioner in the Pollicino v Klein matter.

WHEREAS, it appears that certain language in the Commissioner's Regulation Section 100.11(b) has recently been changed from "In the City School District of the City of New York, *each board of education* of each community school district . . . shall develop a plan . . ." to "In the City School District of the City of New York, *the superintendent* of each community school district . . . shall develop a plan . . ." and it is not apparent to the members of CDEC 26 when or why this change was made or whether the Chancellor or the NYC DOE requested this change or had any involvement whatsoever in this revision.

THEREFORE BE IT RESOLVED THAT, Community District Education Council 26:

1. Hereby strongly urges the Chancellor and the NYC DOE to immediately withdraw the March 2009 A-655 and provide the Community District Superintendents with an alternative A-655 which complies with New York State Education Law Sections 2590(h)(15)(b), 2590(h)(15)(b-1), and 2590-r(n) and the decision of the Commissioner in the Pollicino v Klein matter.

BE IT FURTHER RESOLVED THAT, if the Chancellor and the NYC DOE do not immediately withdraw the March 2009 A-655, Community District Education Council 26:

1. Hereby strongly urges the District Leadership Team for Community School District 26, as well as every other DLT in the City of New York, a) to advise their respective Community Superintendents that they object to the March 2009 A-655 because it violates New York State Education Law Sections 2590(h)(15)(b), 2590(h)(15)(b-1), and 2590-r(n) and the decision of the Commissioner in the Pollicino v Klein matter and, b) to refuse to endorse the revised regulation.

2. Hereby strongly urges Community School District 26 Superintendent Anita Saunders, as well as every other Community District Superintendent in the City of New York, to disapprove the March 2009 A-655 because it violates New York State Education Law Sections 2590(h)(15)(b), 2590(h)(15)(b-1), and 2590-r(n) and the decision of the Commissioner in the Pollicino v Klein matter.

BE IT FURTHER RESOLVED THAT, if the Chancellor and the NYC DOE do not immediately withdraw the March 2009 A-655, Community District Education Council 26:

1. Reserves its rights to file litigation, to file another appeal to the New York State Commissioner of Education, or to seek any other legal remedies available to the Council to challenge the legality of the March 2009 A-655 and to stay its application.

BE IT FURTHER RESOLVED THAT, Community District Education Council 26:

1. Hereby requests that the Commissioner advise CDEC 26 as to when and why Commissioner's Regulation 100.11(b) was amended as set forth above and advise CDEC 26 whether such changes were made at the request of the Chancellor or the NYC DOE or whether the Chancellor or the NYC DOE had any involvement whatsoever with the changes in question.

2. Hereby requests that the Chancellor or the NYC DOE advise CDEC 26 as to whether the Chancellor or the NYC DOE requested the changes set forth above or whether the Chancellor or the NYC DOE had any involvement whatsoever with the changes in question.

3. Hereby requests that our local (District 26) elected representatives in the New York State Legislature and the New York City Council assist CDEC 26 in determining when and why Commissioner's Regulation 100.11(b) was amended as set forth above and whether such changes were made at the request of the Chancellor or the NYC DOE or whether the Chancellor or the NYC DOE had any involvement whatsoever with the changes in question.

4. Hereby authorizes the president of CDEC 26 to contact the Commissioner, the Chancellor, the NYC DOE and our local elected officials for the purpose of making the inquiries listed above (the president of CDEC 26 may, at his discretion, delegate this authority to the appropriate person or persons).

NOW THEREFORE BE IT RESOLVED THAT, Community District Education Council 26 strongly condemns the Chancellor and the NYC DOE for their continuing disregard of the laws of the State of New York, for their continuing disregard of the principles of parental involvement and shared decision-making and for their continuing disrespect of all parents of New York City public school children.

Council Member - Robert Caloras, Esq., President of the Council
Council Member - Jeannette Segal, First Vice President
Council Member - Irene Fennell, Second Vice President
Council Member - Marie Pollicino, Recording Secretary
Council Member - Erik DePaula, Esq., Treasurer
Council Member - Irene Cheung, Borough President's Appointee
Council Member - David Kerpen
Council Member - Patrick McShane
Council Member - Dina Quondamatteo
Council Member - Vincent Tabone, Esq.

Adopted by the CDEC of DISTRICT 26 this 26th day of March 2009.