

## **1. Terms of members**

Under existing law, community school board members serve for terms of three years, and are not subject to term limits.<sup>17</sup> Educ. L. §2590-c(2). In the new scheme, parent members of all the bodies serve for two year terms, and are not subject to term limits. The Borough Presidents' and Public Advocate's appointees serve terms of two years, and the Borough Presidents' appointees may be reappointed for only one additional term. High school student members may serve for only one year. Educ. L. §§2590-c(1)(b); 2590-a(4)(a).

## **2. Qualifications**

### **a. CDEC members**

Under current law, persons may run for office as a community school board member if they are:

- (1) either a registered voter residing in the community school district, or a parent of a child attending any school under the jurisdiction of the board;
- (2) a resident of the City for at least 90 days prior to the date of the election;
- (3) at least 18 years of age;
- (4) not disqualified under the provisions of Election Law §5-106 (relating to felony convictions, persons who have been adjudged incompetent, and persons who have made bribes or other efforts to improperly influence an election);
- (5) not disqualified on the basis of criminal history or malfeasance;
- (6) not serving on another community school board or employed by a community school board or the city board; and
- (7) not holding elective public office or elective or appointed party position except that of delegate or alternate delegate to a national, state, judicial or other party convention, or member of a county committee.

Educ. L. §2590-c(4).

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<sup>17</sup> Due to legislation postponing the community school board elections to allow for the Legislature to pursue governance reforms, the terms of current members have been extended by two years. As noted above, the Justice Department precleared these laws.

Chapter 123 establishes similar qualifications and disqualifications for members of the CDECs, but with the important distinction that there will now be three classes of members, each with its own inherent qualification characteristic: parents, borough president appointees, and students. Educ. L. §2590-c(8)(b). Persons are eligible to serve as parent members of a CDEC if they are parents of children attending a school under the jurisdiction of the community school district. Educ. L. §2590-c(1)(b). The qualifications and disqualifications established by statute allow persons to serve as parent members, borough president appointees or high school student representatives if they are:

- (1) not disqualified on the basis of criminal history or malfeasance;
- (2) not serving on another CDEC, the Citywide Council on Special Education or the City Board; and
- (3) not holding elective public office or elective or appointed party position except that of delegate or alternate delegate to a national, state, judicial or other party convention, or member of a county committee.

Educ. L. §2590-c(5).

An officer of a parent association or PTA may not be nominated to serve on the CDEC. Educ. L. §2590-c(8)(b). A CDEC member may not be employed by a CDEC, the Citywide Council on Special Education, or the City Board. *Id.* Chapter 123 authorizes the Chancellor to establish additional qualifications and disqualifications for CDEC membership. Educ. L. §2590-c(8)(b).<sup>18</sup>

#### **b. Members of the Citywide Council on Special Education**

The qualifications and disqualifications for membership on the Citywide Council on Special Education are similar to those for membership on the community school boards. Educ. L. §2590-b(4). As with the CDECs, there are three classes of members, each with its own inherent qualification characteristic: parents, the Public Advocate's appointees, and students.

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<sup>18</sup> Chancellor's Regulation D-140, which implements these requirements, is discussed below at Part VII.

### 3. Process for becoming a parent member

#### a. Community District Education Councils

There are three groups of members of the new CDECs, as noted above: parent members, borough president appointees, and non-voting high school student members. The Chancellor is directed to develop a nomination process for parent member candidates which:

- will outline in detail the procedure which must be followed to present a name for consideration,
- shall prohibit officers of any parent association or parent teacher association from being nominated,
- may include qualifications and prohibitions in addition to those outlined in the statute; and
- may allow for an interview process for nominees.

Educ. L. §2590-c(8)(b). Education Law §2590-c(1)(a), as noted above, provides that the members are to be “selected by the presidents and officers of the parent association or parent-teachers’ association.”<sup>19</sup> The Chancellor is directed to develop selection procedures which:

- shall attempt to ensure membership that reflects a representative cross-section of the communities within the school district and diversity of the student population including those with particular educational needs,
- shall include consideration of the enrollment figures within each community district and the potential disparity of such enrollment from school to school within the district, and
- shall ensure that, to the extent possible, a school may have no more than one parent representative on the CDEC.

Educ. L. §2590-c(8)(c).

Under existing law, decisions about candidates’ eligibility are made by the Board of Elections or the City Board of Education. Educ. L. §2590-c(6)(e). A similar process is provided for eligibility determinations with respect to CDEC membership, substituting the Chancellor for the Board of Elections. Educ. L. §2590-c(5).

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<sup>19</sup> Parent associations and parent teacher associations are established pursuant to Chancellor’s Regulation A-660, attached hereto as Exhibit 32. The regulation may also be found at <http://docs.nycenet.edu/dscgi/admin.py/Get/File-459/A-660.pdf>. Information about these associations is provided below at Part V.

## **b. Citywide Council on Special Education**

Parent members of the Citywide Council on Special Education are to be selected by parents of students receiving special education services, pursuant to “a representative process developed by the Chancellor.” Educ. L. §2590-b(4)(a)(1).

### **4. Training and financial disclosure requirements**

Under current law, community school board members must make annual written disclosure of financial and other specified interests, and may be suspended or removed by the Chancellor for failure to comply. Educ. L. §§2590-e(5)(b); 2590-h(40). The Chancellor may also require community school board members to “participate in training and retraining in order to promote district and school performance and student achievement, as a continuing condition for membership.” Educ. L. §§2590-e(7)(6); 2590-h(33).

Similar requirements will apply to candidates for and members of the CDECs. Educ. L. §§2590-e(5)(b); 2590-e(7)(6); 2590-h(33); 2590-h(40).

### **5. Prohibitions on members’ involvement in hiring and future employment of members**

Under current law, community school board members are generally prohibited from involvement in the hiring, appointment or assignment of education employees, other than as specifically authorized in the Education Law, and are subject to removal for failure to comply. Educ. L. § 2590-e(4). This requirement will apply to members of the CDECs. Id.

Under current law, community school board members may not be employed by their board or the superintendent of their district for a period of three years following the termination of their service, unless the person qualifies for the position pursuant to a competitive examination and applicable provisions of the New York Civil Service Law. This provision will also apply to members of the CDECs. Educ. L. §2590-f(3).

### **6. Compensation**

Like current members of the community school boards, future members of the CDECs and the Citywide Council on Special Education will serve without compensation, but will be reimbursed for expenses incurred in connection with their office. Educ. L. §§2590-c(1); 2590-b(4)(b).

## **7. Suspension or removal**

Educ. L. §2590-l authorizes the Chancellor to issue an order requiring a community board to cease its improper conduct or take required action consistent with the Education Law and the educational and operational policies of the City Board, by appropriate means including supersession of the board, and suspension or removal of the board or any member or members thereof. Similar provisions will apply to members of the CDECs.

## **B. Powers of the governance bodies**

A chart comparing the provisions of existing law concerning the powers of community school boards with comparable provisions regarding CDECs and the Citywide Council on Special Education is attached hereto as Exhibit 24. In general, Chapter 123 transfers all powers previously exercised by the community school boards to the CDECs, and adds explicit provisions about the CDECs' role in approving district annual capacity plans, evaluating district superintendents and other supervisory personnel, approving zoning plans, and employing secretaries. It also empowers the Citywide Council on Special Education to advise and comment on policy involving special education services and the process of establishing committees on special education.<sup>20</sup>

### **1. Evaluation**

Chapter 123 contains three new provisions relating to the CDECs' role in evaluation. Section 2590-d(2)(c) provides that by-laws shall prescribe a process consistent with procedures which shall be developed by the Chancellor for community input in connection with the annual evaluation of the district superintendent and other instructional supervisors assigned or appointed to the district by the Chancellor. Section 2590-e(15) provides that each CDEC shall submit an annual evaluation of the superintendent to the Chancellor. Section 2590-e(16) provides that each CDEC shall submit an annual evaluation of all other instructional supervisory personnel who have responsibility for more than one school within the district, consistent with procedures which shall be developed by the Chancellor.<sup>21</sup>

The new Citywide Council on Special Education is required to issue an annual report on the City District's effectiveness in providing special education services, and make

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<sup>20</sup> A "committee on special education" evaluates whether a student requires special education services and programs and recommends appropriate services and programs.

<sup>21</sup> Prior to the enactment of Chapter 91, Education Law §2590-d(2)(c) provided for districts to implement a process for community involvement in the periodic review of superintendents' performance. This provision was repealed by Chapter 91.

“recommendations, as appropriate, on how to improve the efficiency and delivery of such services.” Educ. L. §2590-a(4)(c)(3).

## **2. Educational policies and objectives**

Current law provides that “each community school board shall have the following powers and duties to establish educational policies and objectives, not inconsistent with the provisions of this article and the policies established by the city board, with respect to all pre-kindergarten, nursery, kindergarten, elementary, intermediate and junior high schools and programs in connection therewith in the community district. The community boards shall have no executive or administrative powers or functions, but shall have the following powers and duties”:

- promote achievement of educational standards and objectives relating to the instruction of students
- cooperate as required by the Chancellor in the removal from office pursuant to section 2590-1 of the Education Law of any community board member for willful, intentional or knowing involvement in the hiring, appointment or assignment of employees other than as specifically authorized in Article 52-A of the Education Law
- require community board members, the community superintendent, and any other officer or employee in schools and programs under the jurisdiction of the community boards, to make annual written financial disclosure and disclosure of conflicts, in accordance with regulations and bylaws of the city board developed in consultation with the community boards, to the community board and the City Board
- require community board members, candidates for community boards, the community superintendent and, for good cause shown, any other officer or employee in schools and programs under the jurisdiction of the community boards to submit to the city board and the community boards, in accordance with regulations and bylaws of the city board developed in consultation with the community boards, financial reports for themselves and their spouses, provided that in the case of community board members and candidates for community boards the statement of financial disclosure and the frequency with which it must be filed must satisfy at least the requirements and standards for disclosure of section 73-a of the Public Officers Law.
- participate in training and education programs.
- prepare a district report card.
- employ or retain counsel subject to the Corporation Counsel’s powers and duties, in actions or proceedings in which the council or any member is a defendant or respondent.

Education Law §2590-e.

Each of the above-listed powers is given to the new CDECs. Id. In addition, Chapter 123 adds new language explicitly authorizing each CDEC to:

- Approve zoning lines, as submitted by the superintendent, consistent with the regulations of the Chancellor, applicable to schools under the jurisdiction of the community district.
- Hold meetings at least every month with the superintendent to discuss the current state of the schools in the district and progress made toward the implementation of the district's comprehensive education plan required by the Chancellor.
- Review the district's educational programs and assess their effect on student achievement.
- Approve the district's annual capacity plan.
- Provide input, as it deems necessary, to the Chancellor and the City Board on matters of concern to the district.
- Liaison with school leadership teams as may be necessary and provide assistance to the school leadership teams where possible.

Educ. L. §2590-e(11), (12), (13), (17), (18), (19).

### **3. Budget**

Under current law, the Chancellor submits a proposed 5-year educational facilities capital plan to each community school board once every 5 years. The boards conduct public hearings and submit recommendations to the Chancellor, who is required to consider them in preparing a final plan for approval of the City Board. Educ. L. §2590-p(3)(b). In addition, the Chancellor submits preliminary scopes of work for new construction projects to the community school boards, which may hold public hearings on their scope and submit comments to the Chancellor. The Chancellor is required to consider these comments in preparing the final scope of work that will be submitted to the City's Director of Management and Budget. Educ. L. §2590-p(3)(c). Chapter 123 transfers these roles to the new CDECs.

### **4. Student code of conduct**

The community school boards under existing law, and the CDECs under Chapter 123, are authorized, with the Chancellor's approval, to adopt policies consistent with the citywide code of conduct to meet the individual needs of their district. Educ. L. §2801(3).

## **5. Appointing staff**

Under current law, community school boards may appoint a board secretary, pursuant to the policies of the City Board, who prepares meeting notices, agendas and minutes, and records and maintains accounts of proceedings and other board meetings. Each board is responsible for the appointment, supervision, evaluation and discharge of the board secretary. Educ. L. §2590-c(1). Chapter 123 gives comparable powers to the CDECs and the Citywide Council on Special Education, with the additional specification that the secretary of each such body shall “prepare briefing materials and other related informational materials for ... meetings.” Educ. L. §§2590-c(4); 2590-a(4)(d).

## **6. Public meetings**

Under current law, community school boards must conduct an annual meeting in connection with the distribution of the school district’s report card, and must hold quarterly meetings including the superintendent, principals and parent association or PTA officers. Educ. L. §§2590-c(8); 2590-d(2). Chapter 123 applies these requirements to the CDECs. In addition, it specifies that the CDEC shall “hold public meetings at least every month with the superintendent during which the public may speak so that parents and the community have a voice and a public forum to air their concerns” Educ. L. §2590-e(14), and “hold a public hearing on the district’s annual capacity plans, recommended by the superintendent and based on data from the Chancellor on enrollment/utilization for each school within the district and submit such plan, upon approval by the community council, to the Chancellor for his or her approval and implementation.” Educ. L. §2590-e(17). With respect to the citywide council on special education, the new law requires “at least one meeting per month open to the public and during which the public may discuss issues facing students with disabilities.” Educ. L. §2590-a(4)(c)(4).

## **7. By-laws**

Under current law, school boards may prescribe by-laws and regulations, which may include but are not limited to requirements for: parent associations or PTAs within the district; regular communication among the boards, the superintendents and principals and parent associations or PTAs; quarterly meetings with elected officers “to the end that such associations are provided with full factual information pertaining to matters of pupil achievement...,” and compliance with the State’s Open Meetings Law. Educ. L. §2590-d(2). Chapter 123 makes these provisions applicable to the CDECs. Id.



## **8. Receipt of information**

Under current law the Chancellor periodically furnishes the community school boards with the results of examinations and evaluations, and also makes them public. Educ. L. §2590-h(9). In the future such information will be provided to the CDECs. Id.

## **9. Supersession and other discipline by the Chancellor**

The Chancellor's authority under existing law to supersede decisions of a community school board inconsistent with a corrective action plan is made applicable to such decisions by a CDEC. As under existing law, the Chancellor's determination will be appealable to the City Board. Educ. L. §2590-h(31). Provisions of Educ. L. §2590-l relating to the Chancellor's authority to discipline community school boards and their members by ordering the cessation of improper conduct, and by suspending community school boards and their members, are made applicable to the new CDECs and their members.

## **10. Relationship with community superintendent**

Chapter 123 amends Educ. L. §2590-m(8), which relates to various powers and duties conferred on community school boards being exercised exclusively by the community superintendent, to refer instead to the CDECs. A similar amendment is made in Educ. L. §2590(f)(2), which will provide: "[i]n exercising such powers and duties each community superintendent shall comply with all applicable provisions of law, by-laws, rules or regulations, directives or agreements of the chancellor and his or her community district education council and with the city-wide educational policies established by the City Board and his or her community district education council, including performance standards addressed to administration and educational effectiveness, and any requirements for continuing training and education, embodied in standards, circulars or regulations promulgated by the chancellor."

In addition, Chapter 123 adds new language at Educ. L. §2590-f(1)(u) to require that the superintendent provide relevant data to the CDEC to encourage informed and adequate public discussion on student achievement and the state of each school within the district.

# **V. PARENT ASSOCIATIONS AND PARENT TEACHER ASSOCIATIONS**

## **A. Statutory and regulatory provisions**

Chapter 123 empowers parents of public school students by giving them the majority of seats on the new councils. It provides that the parent-members will be selected by officers of the PTAs and parent associations from all the public schools within the jurisdiction of the relevant community school district. Educ. L. §2590-c(1)(a). As demonstrated in this Part, these bodies

are designed to be welcoming, inclusive and democratic organizations offering all public school parents the opportunity to participate in the governance of their local schools. All parents may participate in the election of parent association and PTA officers.

The Chancellor has the power and duty to:

Promote the involvement and appropriate input of all members of the school community pursuant to the provisions of this article, including parents, teachers, and other school personnel, including:

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

Educ. L. §2590-h(15).

Pursuant to this authority, the Chancellor has promulgated Regulation A-660, which governs parent associations and PTAs.<sup>22</sup> The regulation contains the following definition:

A parent association (PA) is an organization of parents of students in a New York City public school created and established by vote of the parents which has adopted bylaws, elected officers, has regular meetings, and allows and encourages meaningful participation of its members. A PA may be either a parent association or a parent-teacher association.

Chancellor's Regulation A-660, p. 2. The regulation requires every school in the City to have a PTA or parent association. Id. at p. 4. Bylaws adopted by the parents determine whether membership will be extended to teachers and other staff. Id. at 7. Principals, assistant principals and supervisors may not be members of a parent association or PTA. Id. at 11.

Regulation A-660 is designed to promote parent involvement in governance, especially at the leadership level. Parent associations and PTAs are required to “develop parent leadership and encourage members to vote in PA elections and to run for PA office.” Id. at 17. Superintendents and principals are responsible for convening parents to form these organizations. Id. at 4. Membership in PTAs and parent associations is open to all “parents, legal guardians,

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<sup>22</sup> Chancellor's Regulation A-660 is attached as Exhibit 32. The regulation may also be found at <http://docs.nycenet.edu/dscgi/admin.py/Get/File-459/A-660.pdf>. The Chancellor is in the process of amending this regulation to implement changes related to Chapter 123, and additional changes that are not directly related to this preclearance submission. The relevant changes are discussed in Part VII of this submission.

[and] persons in parental relation of children currently attending the school...” Id. at 6, 10.<sup>23</sup>  
The regulation provides:

PAs in the public schools must be welcoming to all parents within the school. The PA must actively seek its members from all parents within the school, including parents of students in special education (including those children who are attending a non-citywide school full time while on the register of citywide programs), English Language Learners, Title I, gifted and talented, and magnet programs.

Id. at 9 (emphasis added). See also Id. at 6 (“Active outreach and information shall be required and provided year round.”) and 17 (“PAs must solicit parent membership from all parents within the school and encourage parent attendance at PA meetings on an ongoing basis.”)

The associations are permitted to solicit dues. However, payment of dues may not be a condition for membership, the right to vote or the right to run for office of a parent association or PTA. Id. at 9 - 11.

The Chancellor’s regulation calls for parent associations and PTAs to elect officers each spring, by no later than May 31. The term of office runs from July 1 to June 30. Each association must have at least three officers including a president, a secretary, and a treasurer; additional officers are permitted. Id. at 7.

The process of nomination and election for officers is set forth in each association’s bylaws. Id. at 7, 12. The process must involve a nominating committee whose majority is selected by the general membership. Persons employed in the school may not serve on the nominating committee. Id. at 7, 13. All members of the PTA or parent association must have the opportunity to make nominations from the floor before the closing of nominations. Id. at 7, 13. The regulations further provide that:

The nominating committee is responsible for conducting the election process, canvassing the membership for all eligible candidates, determining candidate eligibility, sending notices, and running nominating meetings. The nominating committee shall solicit recommendations for candidates for consideration. Written notices soliciting recommendations must be distributed to the entire membership. \*\*\* The nominating

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<sup>23</sup> A “person in parental relation” is defined as “one who is directly responsible for the care and custody of a child on a regular basis in lieu of a parent or legal guardian.” Id. at 3. The regulation further specifies that “a person may only qualify as a person in parental relation if no other eligible person applies as parent or guardian ... PA determinations about who constitutes a person in ‘parental relation’ must be based on the individual circumstances surrounding guardianship and custodial care of the particular child including consultation with the building principal.” Id. at 10.

committee must send written notice to all PA members informing them of the date and time of the election, and the names of all the nominated candidates.

Id. at 13.

The regulations address the possibility that the election process will not have been completed by the opening of the school year as follows:

If a parent association or PTA has ceased to function for failure to conduct a valid election or for failure to fill vacancies in the positions of President, Secretary, or Treasurer in accordance with the terms of the PA's bylaws, the principal shall be responsible for activating the PA by October 15 of the following school year. An abbreviated process shall be used with the following minimum requirements:

1. The principal shall request the assistance of the superintendent's office and presidents' council<sup>24</sup> to conduct the meeting. The principal is responsible for distributing a notice to convene the initial meeting of the general membership at which nominations of eligible candidates shall be requested. There will be no nominating committee when the PA has ceased to function. The meeting shall be held upon notice at a time as provided for in the PA bylaws.
2. A second general membership meeting shall be convened within two weeks for the purpose of holding the election.
3. The principal is responsible for distributing the notice of the second meeting with the names of all candidates, and the date of election.

Id. at 15.

#### **B. Plans to strengthen the parent associations and PTAs as part of the new emphasis on empowering parents**

The Mayor and the Chancellor have made parent empowerment a cornerstone of their plans to reform education in the City of New York. They recognize that the engagement of parents in their children's education is critical to student achievement. This section describes

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<sup>24</sup> Presidents' Councils are established pursuant to Chancellor's Regulation A-660 (Exhibit 32). Each community school district and high school district is required to have such a council. Each parents' association or PTA within the district has one representative on the Presidents' Council. Chancellor's Regulation A-660 at 27.

efforts already being implemented to draw parents into the school system in a variety of ways. The new scheme for selecting parent members of the CDECs and the Citywide Council on Special Education will both support and be supported by these efforts.

In a speech delivered in honor of the birthday of Dr. Martin Luther King, Jr., the Mayor announced his agenda for education reform, stressing the importance of increasing parent involvement in all facets of the system:

Today, we take crucial steps on the road to creating a school system that is new in form and spirit -- one in which educational excellence will flourish. To effect that change, we will immediately focus on three core elements:

First, ending the bureaucratic sclerosis that prevents resources and attention from going where they are needed: the classrooms.

Second, ensuring that every student acquires the skills in reading, writing and math that are the foundations of all learning.

And third, giving parents the tools, and the charge, to become full and active partners in the education of their children.

The school governance reform legislation enacted last year cleared the way for us to undertake these next steps.

It put an end to decades of diffused and confused educational administration, in which the buck stopped nowhere.

It gave us the opportunity to begin with something very close to a blank slate, freeing us to think anew and act anew.

Now we are preparing to build on what was done, and what was learned.

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The third and perhaps most critical core element in the new school system is to make the roles and responsibilities of parents greater. Parents must be equal partners in education.

The clear message Chancellor Klein and his team have heard from the public school parents of New York is that parents of New York, is that parents want more access to, and information about, their children's schools. They want regular communication. And they want to be treated with respect.

The new school system will achieve those goals. The entire school system, from principals up to the Chancellor, will be held

accountable for effectiveness in engaging parents, and responding to their concerns.

Every school will become parent-friendly. Administrators and teachers will be expected to exhaust every avenue in making parents part of the school environment.

In each school there will be a "parent coordinator[']", whose sole job will be to engage parents in their children's education, and be the ombudsperson in the school.

Parent engagement also will be a significant factor in principal performance reviews. This will ensure that it is viewed as a core responsibility, not as an "add-on[']" or optional activity.

Many parents' schedules incidentally, make it difficult for them to come to their children's schools during the workday. Therefore in all of the Learning Support Centers throughout the city, we will set up community-focused parent service offices, each open at least two nights a week and on weekends, and each with the ability to work on the issues of any school in the city.

The governance structure of the entire school system also must become parent-oriented. That's why tomorrow, Deputy Mayor Dennis Walcott and Chancellor Klein will testify to the Joint State Legislative Task Force on Education that our current ineffective and politically driven community school board system must be abolished.

They will urge that district boards be replaced by new "Parent Engagement Boards[']" on which only parents of children attending that local school may serve -- and [be] protected from being compromised by local politicians as has happened every time in the past.

We not only want parents to become more involved in the education of their children we challenge them to accept this role."<sup>25</sup>

(Emphasis added.)

As the Mayor recounted in his address, during his first year of office, Chancellor Klein convened a citywide series of community engagement meetings, conferring with thousands of parents, students, teachers, principals, staff, community groups, education experts, faith-based

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<sup>25</sup> A copy of the Mayor's speech is attached as Exhibit 39.