

# Bylaws of the Panel for Educational Policy of the City School District of the City of New York

## Article I: Preamble

1.1. History: The Board of Education of the City School District of the City of New York, the largest school district in the United States, is created~~was established~~ by the Legislature of the State of New York ~~and derives its powers from State Law.~~

1.2. Vision: The ~~fifteen-member body designated as the~~ Board of Education of the City School District of the City of New York, also ~~in New York Education Law Section 2590-~~ ~~b shall be~~ known as the Panel for Educational Policy (“PEP”), is committed to representing the diversity of voice and opinion within New York City school communities, and promoting equity in education. We seek to help create a system of education that embodies the philosophy stated by George Washington Carver: “Education is the key that unlocks the golden door to freedom.” We are committed to ensuring that every student has an education of the highest quality, fortified by a curriculum of inclusion and pride, that prepares them for success in college and career, but also imbues them with a sense of action and engagement as a responsible member of society. We believe that education is a fundamental human right, and that it is our duty to ensure that all students have equal access to the opportunity and resources needed to reach full potential. Our goal is to forge the key to a brighter future for all the families of the City of New York.

~~1.2.1.3.~~ Mission: The PEP is committed by mission and State law to working with the Chancellor, superintendents, community and citywide education councils, principals, and school leadership teams, as a part of the governance structure responsible for the City School District of the City of New York, subject to the laws of the State of New York and the regulations of the State Department of Education. ~~Other parts of the structure include the Chancellor, superintendents, community and citywide education councils, principals, and school leadership teams.~~ Together this structure shall be designated as the Department of Education of the City of New York.

## Article II: Powers and Duties

2.1. The Panel for Educational Policy shall advise the Chancellor on policy matters affecting the welfare of the city school district and its pupils. PEP members shall perform those duties and have those responsibilities assigned to them by New York Education Law Section 2590-g. These powers and duties include:

- (a) approve standards, policies, and objectives proposed by the Chancellor directly related to educational achievement and student performance;
- (b) consider and approve any other standards, policies, and objectives as specifically authorized or required by state or federal law or regulation;
- (c) approve all regulations proposed by the Chancellor or the city board and any amendments made thereto;
- (d) approve the educational facilities capital plan, and any amendments requiring city board approval pursuant to Education Law section 2590-p t, following any applicable hearings conducted by the community district education councils;
- (e) approve annual estimates of the total sum of money which it deems necessary for the operation of the city district and the capital budget pursuant to Education Law section 2590-q-;
- (f) approve the allocation of projected revenues among community districts and their schools pursuant to Education Law section 2590-r(a) and to approve the aggregation of the community district budgets, with a proposed budget for administrative and operational expenditures of the city board and the Chancellor, following a public hearing pursuant to Education Law 2590-r(f)-;
- (g) approve a procurement policy for the city district, and any amendments made thereto, developed pursuant to Education Law section 2590-h(36)-;-  
**and**
- (h) approve proposals for all school closures or significant changes in school

utilization including the phase-out, grade reconfiguration, re-siting, or co-location of schools, following any hearing pursuant to Education Law section 2590-h(2-a), and provide an explanation to the relevant community council if the PEP approves such a proposal that the relevant community council affirmatively voted against, pursuant to Education Law section 2590-e(21);

- (i) comply with emergency adoption of items in accordance with New York Education Law Section 2590-g~~;~~
- (j) respond at a regular public meeting, to the recommendations raised in the annual reports issued by the citywide council on special education, the citywide council on English language learners and the citywide council on high schools~~;~~
- (k) conduct an annual survey to allow parents, teachers and school personnel to evaluate the performance of the city board and the Chancellor with regards to city district resources, oversight and curriculum. The results of such survey shall be made publicly available including via the city board's official internet website; and~~;~~
- (l) provide information, data, estimates and statistics regarding all matters relating to the city district as requested by the director of the independent budget office of the city of New York or the comptroller of the city of New York, in a timely fashion.

2.2. PEP members also serve as members of the Board of Trustees of the New York City Board of Education Retirement System. The chair, or the chair's authorized representative, also serves as a member of the Teachers' Retirement System (TRS) board. One additional mayoral appointee to the PEP is also appointed by the Mayor to serve as a member of the TRS board.

### **Article III: Composition of PEP**

3.1. In accordance with New York State Education Law Section 2590-b, ~~the fifteen (15) members of the PEP are appointed as follows~~the PEP shall consist of twenty-three (23)

voting members: five (5) members, one member ~~is~~ appointed by each borough president of the City of New York; ~~nine~~ five (5) members, one from each borough of the City of New York elected by Community Education Council presidents; and thirteen (13) members ~~are~~ appointed by the mayor of the City of New York, ~~and one (1) member is elected by Community Education Council presidents~~.

3.2. The Chancellor and Comptroller of the City of New York shall serve as ~~a~~ non-voting ex-officio members of the PEP.

3.3. The PEP shall also designate a non-voting Secretary, selected by a majority of voting PEP members, who is not an appointed member of the PEP but shall exercise the powers and duties set forth in these Bylaws. The Secretary may be an employee of the legal department of the New York City Department of Education.

3.4. The PEP shall also include two non-voting high school student advisory members selected ~~by the New York City Department of Education~~ as set forth in Chancellor's Regulation D-200.

3.5. Each borough president's appointee shall be a resident of the borough for which the borough president appointing him or her was elected and shall be the parent of a child attending a public school within the City School District of the City of New York.

3.6. Each mayoral appointee shall be a resident of New York City. ~~Two mayoral appointees shall also be parents of a child attending a public school within the City School District of the City of New York.~~ Four (4) mayoral appointees shall be parents of a child attending a public school within the City School District of the City of New York, provided that at least one appointee shall be the parent of a child with an individualized education program, at least one appointee shall be the parent of a child who is in a bilingual or English as a second language program, and at least one appointee shall be the parent of a child who is attending a district seventy-five school or program.

3.7. All parent members shall be eligible to continue to serve on the PEP for two years following the conclusion of their child's attendance at a public school within the City

School District of the City of New York.

## Article IV: Terms

4.1. All appointed members shall serve for a one-year term, unless removed for good cause in accordance with New York Education Law Section 2590-b(1)(a)(4). ~~terms coterminous with the terms of their appointing authorities. Appointed members may be removed at the pleasure of the appointing authority, who shall provide written notice to the public explaining the reasons for removal at least ten days in advance of removal.~~

4.2. Parent members elected by Community Education Council presidents shall serve a term of ~~two~~ one years. The processes for election and removal of such parent members and the qualifications of PEP members are set forth in Chancellor's Regulation D-200.

4.3. The terms of the non-voting student advisory members are for one year.

~~4.3.~~4.4. The terms of all members and shall begin on July 1 ~~of the year of appointment and end on June 30 of the following year.~~

## Article V: Vacancies

A vacancy on the PEP other than by expiration of term shall be filled by appointment by the appropriate appointing authority within ninety (90) days of such vacancy, and the person appointed to fill such vacancy shall serve for the remainder of the unexpired term. The Chairperson will request that the New York City Department of Education liaison to the PEP contact the appropriate appointing authority to fill the vacancy should the need arise.

## Article VI: Election of Officers

6.1 The PEP is solely responsible for the election of its officers. Elections of officers of the PEP must be conducted in a free, fair, and inclusive manner, providing an opportunity for the full participation of all members.

6.1.1. The officers of the PEP shall be Chairperson and Vice-Chairperson.

6.1.2. In accordance with Education Law Section 2590-b(1)(a)(3), the PEP shall elect its Chairperson from among its voting members.

6.1.3. The PEP shall also elect a Vice-Chairperson from among its members.

6.1.4. Elections shall be conducted annually at the ~~January~~ July PEP meeting.

6.1.5. Members may self-nominate or be nominated by other PEP members. Members will vote a second time if a tie exists as a result of any roll call vote.

## **6.2. Term of Office**

The term of office shall be from the ~~January~~ July calendar meeting to the subsequent ~~January~~ July calendar meeting.

## **~~6.3. Term Limits~~**

~~The Chairperson and Vice-Chairperson may serve multiple terms, but each may serve no more than two consecutive terms unless the position is uncontested during the annual election.~~

## **~~6.4.~~ 6.3. Failure to Attend Meetings**

In the event that a Chairperson or Vice-Chairperson misses three consecutive monthly calendar meetings, the Secretary will notify such officer and the PEP in writing that the officer's position is considered vacated, and a new election will take place to fill the position. If a Chairperson fails to attend or vacates the Chairperson position, the Vice-Chairperson will assume the Chairperson role through succession and serve out the term. The Vice-Chairperson would then be able to reapply for consideration for additional terms, with no more than two additional consecutive terms.

In the event that a PEP voting member fails to attend three consecutive regular PEP meetings, unless the absence is for good cause and excused by the Chairperson, the PEP member may be deemed to have vacated their position.

#### **6.5.6.4. Solicitation of Nominations**

6.4.5.1 At the beginning of the ~~January~~-July meeting, the Secretary will solicit nominations from the members for Chairperson. PEP voting members can self-nominate or be nominated from the floor by other voting members.

PEP members will elect the Chairperson first. When the Chairperson is elected, the Secretary will call for nominations for the Vice-Chairperson. The Vice-Chairperson will be elected second.

6.4.2 The Secretary will verify and announce the votes for Chairperson and Vice-Chairperson.

#### **6.5 Notice of Election Meeting**

6.5.1 The annual election meeting notice will be announced in the ~~January~~-July PEP Monthly Calendar Meeting Agenda.

6.5.2 Any special election meeting notice will be announced in the agenda for the calendar meeting at which the special election will be held.

### **Article VII: Roles and Responsibilities of Members**

#### **7.1. Chairperson and Vice-Chairperson**

7.1.1. The Chairperson of the PEP shall exercise the powers and duties associated with State Law and these bylaws. The responsibilities of the Chairperson shall include:

- (a) preside at all meetings of the PEP; and
- (b) serve as an ex-officio member on all committees; and
- (c) facilitate participation in standing committees and
- (d) encourage the establishment of new committees as warranted.

7.1.2. In the absence of the Chairperson, ~~t~~The Vice-Chairperson ~~of the PEP~~ shall ~~otherwise exercise the powers and duties associated with these bylaws. The~~

~~responsibilities of the Vice-Chairperson shall include:~~

~~(a) In the absence of the Chairperson,~~ assume the roles and responsibilities of the Chairperson in accordance with these Bylaws.

## 7.2 Secretary

The Secretary of the PEP ~~,~~ shall otherwise exercise the powers and duties associated with State Law and these bylaws. The responsibilities of the Secretary shall include:

- (a) maintain the minutes, papers, and additional required documents of the PEP~~;~~
- (b) prepare the agenda for the monthly calendar meeting; make minutes and recordings of the monthly calendar meetings available to the public, including via the PEP's official internet website, promptly but no later than the subsequent regular PEP meeting~~;~~
- (c) review and process (in accordance with appropriate directives) all appeals directed to the PEP and filed in accordance with the law~~;~~
- (d) serve as the clerk of the appeal board in accordance with regulations of the Commissioner of Education, part 113~~;~~
- (e) serve as or designate as appropriate the timekeeper for scheduled meetings and ensure that all speakers that have registered to comment at scheduled meetings are called in the order described in Article IX, Section 9.1.4 of these Bylaws; and
- (f) ~~and~~ perform such other duties as the Chairperson and the PEP shall require, including providing appropriate follow-up information as requested within a reasonable time of the request, consistent with the authority of the PEP and subject to applicable law.

## 7.3. Chancellor of the NYC Department of Education

The Chancellor shall have custody of the corporate seal.

#### **7.4. High School Students**

Two appointed students are speaking members but do not have voting privileges.

### **Article VIII: Committees**

The Chairperson will establish and maintain committees that allow the PEP to effectively execute its duties under New York State Education Law Section 2590-g. It is recommended that there be five members on each committee. Committee participation is open to all members of the PEP. Student input is welcome. A committee of the PEP shall act at committee meetings by a majority of the committee, to the extent permitted by law.

#### **8.1 Contracts Committee**

The Contracts Committee shall review and make recommendations regarding contracts proposed by the Chancellor that have been placed on the agenda for review and approval by the full PEP at the next calendar meeting. A non-voting designee of the Chancellor knowledgeable about such proposed contracts shall meet with and provide information to the Contracts Committee regarding such proposed contracts.

#### **8.2 Appeals Committee**

The Appeals Committee shall hear appeals and make recommendations to the full PEP according to New York Education Law sections 2590-g, 2590-l, and 2590-i(2)(a).

#### **8.3 Bylaws Committee**

Under New York Education Law Section 2590-d, the Bylaws Committee shall review the PEP Bylaws annually for consideration and approval by the full PEP.

#### **8.4 Other Committees**

The PEP may establish additional committees, which shall be appointed by the

Chairperson in accordance with these Bylaws. Such committees of the PEP may include advisory members of the committee with no voting rights. An advisory member(s) may be affiliated with the public, private, or nonprofit sectors.

## **Article IX: Meetings**

The PEP shall comply with the requirements of the Open Meetings Law. Its meetings shall be open to the public except to the extent permitted by law.

A majority of the members of the PEP shall constitute a quorum at all meetings of the PEP. If a smaller number than the majority is present, the Secretary shall call the roll, record the names of the absentees and adjourn.

The PEP shall act at its calendar and special meetings by a majority of the whole PEP.

### **9.1 Calendar Meetings**

The PEP shall hold at least one public meeting per month, referred to herein as calendar meetings. These meetings are held to take official action, in public, on matters for which the PEP is responsible in accordance with New York Education Law Section 2590-g. At calendar meetings, an opening by the Chairperson will be followed by a chancellor's update and then new business shall be considered--that being of the resolutions, communications and other appropriate matters as described in the agenda accompanying the meeting notice-. At calendar meetings the Chairperson shall ensure that there is a sufficient period of time to allow for public comment on any topic on the agenda prior to a vote by the PEP.

9.1.1. In the event of the absence or disability of the Chairperson, the Vice-chairperson shall perform the duties of Chairperson. In the event of the absence or disability of both the Chairperson and the Vice-Chairperson, the Secretary shall call the roll, and on the appearance of a quorum, shall call the PEP to order, ask for a volunteer to officiate the meeting, and elect a chairperson pro tempore by roll call vote to perform the duties as Chairperson with regard to presiding at that meeting.

### **9.1.2 Notice of Calendar Meetings**

At least ten business days in advance of calendar meetings, notice of the time, place and agenda for such meetings shall be publicly provided, including via the PEP's official internet web site, and circulated to all superintendents, community district education councils, citywide education councils, community boards and school leadership teams.

### **9.1.3 Agenda for Calendar Meetings**

The agenda for each calendar meeting shall be comprised of a list and brief description of the subject matter being considered and identification of all items subject to a PEP vote. The agenda for each calendar meeting shall also include the name, office, address, email address, and telephone number of a city district representative, knowledgeable about the agenda, from whom any information may be obtained and to whom written comments may be submitted concerning agenda items.

### **9.1.4 Speaking Protocol During Calendar Meetings**

Public comment may be made regarding specific business items on the agenda, or during the general public comment period [as further described below](#). Comments made during the business item portion of the meeting are limited to items on the agenda. Community leaders are encouraged to share the voices of the communities they represent during that portion of the meeting. Additional speaking time during the general public comment period [may be](#) held at the conclusion of the meeting and is open to all speakers. All speakers are welcome to sign up to deliver comments to the PEP.

[To encourage student participation as well as the promotion of general wellness and appropriate sleep hygiene, the Chairperson may allow students who are present and wish to speak during a general public comment period to speak prior to the business item portion of each calendar meeting.](#)

During the business item portion of each calendar meeting, the Secretary shall ensure that each speaker who wishes to comment on an agenda item be allowed two and one

half minutes to comment on such item. A limited amount of additional time may be permitted at the discretion of the Chairperson. Speakers will be called in the following order: students, community education or citywide council members speaking on behalf of their councils, elected officials, and the general public. For purposes of this paragraph, “elected officials” does not include members of community education councils or citywide councils. If the Chairperson determines that a speaker is not commenting on the agenda items currently being considered, the Chairperson shall direct the Secretary to reassign that speaker to the appropriate comment section of the calendar meeting.

During ~~the any~~ general public comment period ~~of each~~ included in a calendar meeting, speakers will be permitted to deliver comments on a first-come, first-served basis, unless otherwise approved by the Chairperson, with the exception of current students, who will be called to offer general public comment first. The Secretary will ensure that each speaker is permitted two minutes to give public comments, however, such allotted time may be increased or reduced at the discretion of the Chairperson. ~~Additional limited time may be permitted at the discretion of the Chairperson.~~

## **9.2 Public Agenda Meetings and Public Hearings**

These meetings are held to encourage the general public's maximum participation in advising of the PEP. At these meetings, the PEP listens to the views of the public. These meetings may proceed without a quorum present. No votes are taken at these meetings. These meetings shall be called at the discretion of the Chairperson.

## **9.3 Special Calendar Meetings and Adjourned or Recessed Meetings**

The PEP may adjourn a meeting or recess a meeting by agreement of a majority of members attending a meeting. Upon announcing an adjournment or a recess, the Chairperson shall also announce an estimated date and time for reconvening the PEP for Educational Policy into public session.

Special calendar meetings may be held at the discretion of the Chairperson, consistent with the public notice and review requirements of Education Law Sections 2590-b and

2590-g. Such meetings may be held to continue the work of an adjourned or recessed calendar meeting, or to consider items requiring PEP approval. All items requiring PEP approval shall be by a public vote at a calendar meeting.

Meetings for the discussion or consideration of items that do not require PEP approval may be held consistent with the requirements of the Open Meetings Law. Where possible, written notice of such meetings shall be given to each PEP member not less than twenty-four (24) hours in advance of the meeting, but in any event, shall be provided as soon as practicable, and shall state the matters to be considered. The PEP may not consider other matters at such meetings except with the consent of all members present.

#### **9.4 Change in Date or Time of Meetings**

A meeting of the PEP may be changed to a different stated date and time at the Chairperson's direction. Any such change must comply with applicable legal requirements.

##### **9.4.1 Notification of Postponement**

The Secretary shall notify all members of the postponement or rescheduling of any calendar meeting or the calling of any special meeting or the holding of any adjourned or recessed meeting.

#### **9.5 Place of Meetings**

The PEP shall consider appropriate public accommodations when selecting a venue so as to maximize participation by parents and the community. The venues for calendar meetings of the PEP and public agenda meetings shall be determined by the Chairperson in conjunction with the DOE liaison to the PEP, taking into account the convenience of parents and students, access to public transportation, and accessibility. At least one calendar meeting shall be held in each borough of the City of New York per year.

## **9.6 Executive Sessions**

The PEP shall act at executive sessions to the extent permitted by law.

## **9.7 Parliamentary Procedures**

9.7.1 The Chairperson shall decide all questions of order and procedure, for which the Chairperson shall refer to Robert's Rules of Order as the Chairperson deems necessary.

9.7.2 At the calendar meeting the Secretary will read the heading of every resolution on the calendar. If no one attending the meeting wishes to address a particular resolution, it will be voted on the first reading. When a question is put, every member present shall vote thereon, unless excused by the PEP. The minutes of the meeting shall reflect the vote of each member present and at the request of any member the roll of those present shall be called for the purpose of recording the yeas and nays.

9.7.3 If the PEP does not complete the business items of a calendar meeting, the Chairperson may adjourn or recess the meeting to a specified date and time, or instruct the Secretary to reschedule the unfinished business at the next calendar meeting.

## **9.8 Construction of Calendar Meeting Agenda**

9.8.1 All resolutions requiring action by the PEP shall be submitted to the Secretary at least five (5) days in advance of the deadline for the provision of public notice of the meeting.

9.8.2 Except as otherwise provided by law, PEP members may request that items be placed on the calendar by notifying the Secretary in writing no later than two (2) business days prior to the deadline for provision of public notice of the meeting. If, however, a PEP member makes such a request after the two-day deadline but at any time prior to the deadline for provision of public notice of the upcoming calendar meeting, the Chairperson shall make a determination as to whether the item can be added to the upcoming agenda and respond directly to the PEP member's request.

9.8.3 Any item which is not submitted in accordance with these procedures may be

withheld by the Secretary and will appear on the agenda for the subsequent Calendar Meeting. Items may only be included on the agenda as provided by State law and these Bylaws.

9.8.4 To the extent practicable, the Secretary shall deliver the agenda for each business meeting along with all available supporting materials to each member of the PEP at least ten (10) business days in advance of the meeting.

## **Article X: Public Review Process**

### **10.1 Notice and Comment Period**

10.1.1. The PEP shall undertake a public review process prior to approving the following proposed items pursuant to New York Education Law 2590-g(1):

- a) standards, policies and objectives proposed by the Chancellor directly related to educational achievement and student performance;
- b) standards, policies, and objectives as specifically authorized or required by state or federal law or regulation;
- c) regulations proposed by the Chancellor and the PEP and any amendments made thereto;
- d) the educational facilities capital plan, and any amendments requiring PEP approval, pursuant to New York Education Law Section 2590-p;
- e) annual estimates of the total sum of money which the PEP deems necessary for the operation of the City District and the capital budget, pursuant to New York Education Law Section 2590-q;
- f) the allocation of projected revenues among community districts and their schools pursuant to New York Education Law Section 2590-r(a) and the aggregation of the community district budgets pursuant to New York Education Law Section 2590-r(f);

- g) a procurement policy for the City District and any amendments made thereto;  
and
- h) proposals for all school closures or significant changes in school utilization.

10.1.2 The public review process shall include notice of the proposed item under PEP consideration at least 45 days in advance of the PEP vote on such item. Such public notice shall include a description of the subject and the purpose and substance of the proposed item under consideration, and shall otherwise conform to the requirements of New York Education Law Section 2590-g(8)(a).

10.1.3 For purposes of this section, amendments of proposed items described in Article X, Section 10.1.1 of these Bylaws, do not include correction of typographical or grammatical errors, changes of contact information, and reformatting of documents.

## **10.2 Notice of Revisions**

In the event that an item proposed to the PEP pursuant to New York Education Law Section 2590-g is substantially revised after public notice has been provided, the PEP shall issue a revised public notice. Such revised notice shall be issued at least 15 days before a PEP vote on the proposed item, but in no event shall the PEP vote on the proposed item within 45 days from the date of the initial public notice. Notice of the revised item shall otherwise conform to the requirements of New York Education Law Section 2590-g(8)(b).

## **10.3 Assessment of Comments**

Following the public review process but prior to voting on any proposed item listed in 10.1.1, the Secretary shall make available to the public, including via the PEP's official internet web site, an assessment of the public comments concerning the item under consideration received up to 24 hours before the PEP vote on such item. The Secretary shall conduct such assessment in accordance with New York Education Law Section 2590-g(8)(c).

## **10.4 Emergency Adoptions**

In the event that the PEP or the Chancellor determines that immediate adoption of any item requiring PEP approval is necessary for the preservation of student health, safety or general welfare and that compliance with the public review process described in Section 11.1.2 of these Bylaws would be contrary to the public interest, such proposed item may be adopted on an emergency basis in accordance with the procedures set forth in New York Education Law Section 2590- g(9). Except as otherwise provided by law, an emergency adoption of an item proposed pursuant to New York Education Law Section 2590-g(1) shall remain in effect for 60 days, during which time the PEP shall comply with the public review process described New York Education Law Section 2590-g(8) in order for the adopted item to become permanent. Emergency adoptions of items relating to school closures or significant changes in school utilizations shall remain in effect for six months. During this time the PEP shall comply with the process described in New York Education Law Section 2590-g(8) in order to extend the school closure or change in school utilization beyond the six month period.

## **Article XI: Bylaws**

### **11.1. Adoption-Amendment-Repeal**

Bylaws shall be adopted, amended or repealed by vote of the majority of the PEP and in accordance with the requirements of New York Education Law Section 2590-d.

### **11.2 Suspension**

The PEP may suspend bylaws as to a particular instance or matter, but not in general, on the vote of a majority of the full membership attending a public calendar or special meeting of the PEP or as otherwise required by law. Only those suspensions so enacted and recorded in writing shall have official status as representing the position of the PEP.

## **Article XII: Personnel**

### **12.1 Removal-Suspension-Trial of Charges**

#### **12.1.1 Charges**

Charges may be preferred against any employee for:

- a) unauthorized absence from duty or excessive lateness;
- b) neglect of duty;
- c) conduct unbecoming his/her position, or conduct prejudicial to the good order, efficiency or discipline of the service;
- d) incompetent or inefficient service;
- e) violation of the Bylaws, rules or regulations of the board of education; or
- f) any substantial cause that renders the employee unfit to perform his/her obligations properly to the service.

### **12.1.2 Trial of Charges-Classified Employees**

The Chancellor or the Chancellor's designee shall initiate charges against an employee in the classified service in accordance with Civil Service Law, section 75.

### **12.1.3 Trial of Charges-Charges**

An employee against whom charges have been preferred shall in person, or by counsel or representative, be entitled before the hearing to be furnished a copy of the charges and specifications, and shall be entitled to participate in person, by counsel or representative, in the trial of the charges, to cross-examine opposing witnesses and to call and examine witnesses in his/her own behalf. The preferral of charges against an employee shall not prevent the inclusion in the trial of additional charges and specifications, provided the employee is informed thereof.

### **12.2 Default or Waiver by Employee**

If a pedagogical employee waives the right to a hearing pursuant to New York Education Law Section 3020-a, the PEP or the community superintendent, as applicable, shall proceed to determine the case and fix the penalty or punishment, if any to be imposed, in accordance with New York Education Law Section 3020-a.

### **12.3 Decision on Charges After Trial**

### 12.3.1 Teaching and Supervisory Staff

Within thirty days of receipt of the report of the section 3020-a hearing panel, or as soon thereafter as practicable the Chancellor or the community superintendent, as applicable, shall implement the panel's recommendations. An appeal of the findings and recommendations of the hearing panel may be taken in accordance with section 3020-a of the State Education Law.

### 12.3.2 Classified Employees

The report of a trial committee or trial examiner shall be subject to final action by the Chancellor who shall, before acting, review the testimony and the evidence in the case. The reasons and factual basis for the decision shall be summarized in the Chancellor's final decision.

## **12.4 Reviews Related to Ratings and/or Recommendations re Probationary Service of Pedagogical Personnel**

### **12.4.1 Appeals re Ratings**

Any person in the employ of the City School District who appears before the Chancellor, or a committee designated by the Chancellor, the size and composition of which the Chancellor is to determine, in respect to an appeal from a rating of an other than a satisfactory rating or an NR rating shall be afforded the opportunity for review in the manner set forth herein and in procedures established by the Chancellor.

A committee designated by the Chancellor shall summon the appellant as soon as practicable, but in any event not later than one year from the date of the receipt of the rating by the appellant.

The findings and recommendations of the committee shall be submitted to the Chancellor for a final decision.

### **12.4.2 Appeals re Discontinuance of Probationary Service**

Any person in the employ of the City School District who appears before the Chancellor, or a committee designated by the Chancellor, concerning the discontinuance of service during the probationary term, or at the expiration thereof, shall have a review of the matter before a committee which shall be designated in accordance with contractual agreements covering employees or by regulations of the Chancellor, as appropriate. After the review, the committee shall forward its advisory recommendation to the community superintendent or to the Chancellor in accordance with contractual agreements.

### **12.4.3 Committee Reviews**

Any person who appears before a committee for the purpose of appealing a rating or concerning the discontinuance or denial of completion of probationary service or denial of certification or termination of a pedagogical license issued by or on behalf of the City School District to a non-tenured employee shall receive written notice of the time and place of the review, addressed either to the place of employment or to the last known post office address, at least one week before the date specified for said review. The notice shall inform the person that he or she is entitled to appear in person, to be accompanied and advised by an employee of the City School District or a representative of the union recognized by the PEP as the collective bargaining representative for the employee, to be confronted by witnesses, if any, to call witnesses, to examine exhibits and to introduce any relevant evidence.

If a witness who was summoned or requested to appear is unavailable or unwilling to appear despite the best efforts of the committee, this shall not prevent a review from continuing but shall be one of the factors considered by the committee.

The advisor need not be an attorney. The attendance of such advisor and witnesses, if employees of the City School District, shall not be deemed absence from official duty, but such persons shall not absent themselves from school duty except pursuant to such rules as the chancellor shall prescribe.

No employee of the City School District shall serve as an advisor or panel member in more than two (2) matters in a school year nor request or accept directly or indirectly any remuneration or other consideration for service as adviser or witness.

A sound recording shall be kept of the proceedings and the person who is appearing before the committee for the purpose of appealing a rating or concerning the discontinuance or denial of completion of probationary service or denial of certification shall be entitled to receive a duplicate of the sound recording of the review, at cost, upon written request. In the event that the sound recording equipment is not available or breaks down during the review, minutes shall be taken of the proceedings and such minutes shall be available to the person summoned at cost and upon reasonable written notice.

Nothing herein shall preclude witnesses from appearing at review proceedings by teleconference or other technological means.

Employees who are not entitled to a review of a u-rating, who timely appeal the decision to terminate their license or certificate, shall have the decision to terminate their licenses or certificates reviewed in accordance with the procedures contained in Chancellor's Regulation C-31. Those procedures shall be deemed to be incorporated herein, and witnesses may also appear by teleconference or by other technological means.

## **12.5 Retirement**

Retirement of employees of the City School District shall be in accordance with applicable provisions of laws and rules and regulations pertaining to the retirement system of which such employee is a member. An employee of the City School District shall submit to a medical examination by the medical board of the retirement system of which he/she is a member when requested to do so, pursuant to an application of the Chancellor in accordance with applicable law or regulations pertaining to such retirement system after examination by and recommendation of the medical division. Neglect, refusal or failure to submit to such medical examination shall be deemed an

act of insubordination.

### **Article XIII: Appeals**

All appeals to the PEP shall be served on the person designated by the Chancellor to receive such appeals. The Chancellor shall be authorized to establish and publish appropriate rules for the processing of appeals.

### **Article XIV: Contracts and Settlements**

#### **14.1 Contracts**

The Chancellor shall present contracts to the PEP for its approval in the following circumstances: where the contract is let by a procurement method other than competitive sealed bidding pursuant to New York Education Law Section 2590-h; where the contract provides for technical, consultant or personal services; where the value of the contract exceeds or projects an annual expenditure exceeding one million dollars; or where the value of a contract awarded to a single entity exceeds one million dollars annually.

#### **14.2 Settlements**

Prior to approving the settlement of litigation where the settlement would significantly impact the provision of educational services or programming within the City School District, the Chancellor shall present the proposed settlement to the PEP for its approval.