



**Department of
Education**

Dennis M. Walcott, Chancellor

Amended Public Comment Analysis

Date: June 26, 2012

Topic: Proposed Chancellor's Regulation D-170

Date of PEP Vote: June 26, 2012

Summary of Proposed Amendments to Chancellor's Regulation D-170

Chancellor's Regulation D-170, Process for the Nomination and Selection of Members of the Citywide Council on English Language Learners Including Filling Vacancies, sets forth the procedures of the NYC Department of Education ("DOE") for the nomination and selection of members of the Citywide Council on English Language Learners ("CCELL"). The proposed amendments to the regulation were posted for public comment on May 11, 2012. The following amendments have been proposed:

- Candidate eligibility requirements have been updated to provide that eligibility is determined as of the date that the parent submits an application to run for a position on the CCELL.
- A parent who is eligible at the time of application, but who ceases to have a child enrolled in a bilingual or English as a second language ("ESL") program during their term of office, shall no longer be eligible to serve as of the date that they cease to be the parent of a student in a bilingual or ESL program.
- The conflicts of interest provision has been updated to reference Chancellor's Regulation D-125.
- Nominees are permitted to submit applications for more than one Citywide or Community Education Council.
- Nominees are required to list information on their application regarding each public school where they currently have a child enrolled in a bilingual or ESL program.
- The parent advisory vote has been eliminated from the selection process.
- The procedures for conducting the Nominees' Forum have been updated to clarify the organizational role played by FACE.

- If a runoff is necessary because one or more seats remain unfilled by operation of the restriction against selecting multiple candidates from the same district, then all nominees who have not been selected already and whose children do not attend school in districts already represented on the CCELL will be eligible to be selected in the runoff.
- If multiple runoffs are necessary, the runoffs will be conducted at the same time but in separate segments, with nominees grouped pursuant to the requirements of this regulation.
- Nominees seeking to serve as a Public Advocate appointee to the CCELL must submit an application to the Public Advocate's office.
- Individuals interested in filling vacancies on the CCELL must submit an application, which may be obtained from the CCELL or FACE.
- All references to the Office for Family Engagement and Advocacy (OFEA) have been changed to refer to the Division of Family and Community Engagement (FACE).

Summary of Issues Raised and Significant Alternatives Suggested

This Amended Public Comment Analysis reflects an additional comment received on the evening of June 25, 2012. The DOE received comments from 3 commentators during the public comment period. The comments received are summarized as follows:

- 1.) The advisory vote should not be eliminated from the selection process.
- 2.) The definition of who qualifies as an ELL parent should be amended in order to make it easier to fill vacant seats on the CCELL. It should be noted that this comment concerns pre-existing language already contained in the regulation, and does not address the proposed revisions.

Analysis of Issues Raised, Significant Alternatives Proposed and Changes Made to the Proposed Regulation

The DOE declined to incorporate the suggestions into the revised regulation for the reasons explained below:

- 1.) With regard to comment 1, State law does not require or reference a parent advisory vote as a component of the CCELL selection process. In analyzing feedback received in the wake of the 2011 selection process, it was determined that the advisory vote results and participation rates failed to provide designated selectors with reliable and/or useful

indicators of widespread parent voting preferences. Accordingly, the proposed regulation eliminates the advisory vote from the selection process.

- 2.) With regard to comment 2, this suggestion concerns pre-existing language already contained in the regulation. The regulation cannot define an ELL student or parent in a manner that conflicts with State law. Section 3204(2-a)(3) of the State Education Law defines an ELL student as “[a] pupil who by reason of foreign birth or ancestry speaks a language other than English, and either understands and speaks little or no English, or who has been identified by any English language assessment instrument approved by the commissioner as a pupil of limited English proficiency;” and who is currently receiving “a program of bilingual education or English as a second language in accordance with standards established by the commissioner.” The DOE is bound by this provision of law.

Accordingly, the DOE will present the proposed regulation to the PEP.

A copy of the proposed regulation can be obtained at:

http://schools.nyc.gov/NR/rdonlyres/01F22114-943E-4122-A766-C5A9E1FBDBFE/124928/D170_SummaryofChanges.pdf.