



Date: March 22, 2010

Topic: Proposed Chancellor's Regulation D-140

Date of Panel Vote: March 23, 2010

Summary of Proposal

Chancellor's Regulation D-140 governing the eligibility requirements and the nomination and selection procedures for members of the community education councils has been updated in accordance with the 2009 amendments to the Education Law. Changes include:

- The regulation now expressly states that each community education council ("CEC") must perform all duties and responsibilities in accordance with the New York Open Meetings Law. (See page 1, Abstract)
- The following changes have been made to the eligibility requirements for community education council ("CEC") members: (1) nine voting members must be parents of children attending a school in the community school district, or parents of children who have attended a school under the jurisdiction of the community district within the preceding two years; and (2) members of the Panel for Educational Policy are not eligible to serve on a community education council. (See page 1, Section I)
- Due to a new statutory requirement that each CEC have at least one member who is a parent of a student who has an individualized education plan ("IEP") and at least one member is a parent of a student who is an English language learner ("ELL"), the portion of a nominee's application that is available for public view includes information to indicate whether the nominee is a parent of a student with an IEP or a student who is an ELL. (See page 2, Section II.B.)
- Presidents and officers of parents' associations ("PA") or parent-teachers' associations ("PTA") are no longer ineligible to serve on a CEC; however, PA/PTA presidents and officers who are candidates in the selection process shall not be eligible to cast votes in the selection process. The PA/PTA shall select a member to vote in the place of each such president or officer for the purposes of the selection process. (See page 2, Section III)

- In selecting CEC members, the selectors must now ensure that of the nine voting member positions filled by parents, at least one position is filled by the parent of a student who is an ELL (“ELL parent”), and at least one position is filled by a parent of a student with an IEP (“IEP parent”). The selection process has been revised to ensure that each CEC has the appropriate make-up. (See pages 2-4, Section V.A.3-6)
- The following changes have been made to the procedures for filling vacancies: (1) if a vacancy results in a council not having at least one member who is an ELL parent and at least one member who is an IEP parent, the council shall select a parent having such a qualification to fill the vacancy after consultation with the Citywide Council on English Language Learners or the Citywide Council on Special Education; and (2) where a vacancy occurs in a position appointed by a borough president, the borough president shall appoint a member to serve the remainder of the unexpired term. (See pages 5-6, Section IX)
- From the effective date of this regulation until the next CEC selection in May 2011, any vacancy that exists on a council that does not already have a member who is an IEP parent or a member who is an ELL parent must be filled with a parent having such a qualification. In filling these vacancies, the CECs shall consult with the Citywide Council on Special Education and the Citywide Council on English Language Learners, as appropriate. However, if a vacancy must be filled with an ELL parent at anytime before the Citywide Council on English Language Learners is constituted in May 2010, no such consultation is required. Where there is only one vacancy to be filled and the council does not already have both an IEP parent and an ELL parent, the CEC shall select one IEP parent and one ELL parent from among the candidates and then select a member by lot from among those two candidates. (See page 6, Section IX, n.10)

Summary of Issues Raised in Written and Oral Comments and Significant Alternatives Suggested

One individual submitted a written comment on the proposed amendments to the regulation. The commenter expressed concern that there are not adequate resources for parents of high school students and that one citywide council for high school parents is not sufficient to meet the needs of these parents. As an alternative, the commenter suggested that CECs should include parents of high school students. The commenter further stated that permitting CEC members to serve on Parent Associations (PA) or Parent-Teacher Associations (PTA) presents a conflict of interest. Next, the commenter suggested that parents of students enrolled in gifted and talented programs be able to serve as the mandated IEP parent on the council. Finally, the commenter stated that CECs should allow parent representatives from the same school, provided their students are enrolled in different academic programs at the school.

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

The DOE did not accept the suggestions proposed for several reasons. First, the law expressly states that the nine voting members of the CECs must be “parents whose children are attending a school under the jurisdiction of the community district, or have attended a school under the jurisdiction of the community district within the preceding two years.” N.Y. Educ. Law § 2690-c(1)(a). High schools are not under the jurisdiction of the community school districts and, therefore, parents whose children attend a New York City public high school are not eligible to serve on the CECs. Second, although the commenter believes that permitting CEC members to serve on PAs/PTAs presents a conflict of interest, barring parents from serving on both a CEC and a PA/PTA would make it impossible to constitute a CEC as all parents at a school are automatically members of the school’s PA/PTA. Moreover, such a prohibition would go against the intent of the new governance law. One of the amendments to the governance law clearly contemplates service on both parent bodies as it states that PA/PTA officers who are candidates in the CEC selection process are not eligible to cast votes in the selection process. Third, the DOE cannot incorporate the commenter’s suggestion that parents of students enrolled in gifted and talented programs be eligible to serve as the IEP parent. The governance law mandates that each council have at least one member who is parent of a student with an IEP. Unless his or her child has an IEP, a parent of a student enrolled in gifted and talented program cannot serve as the IEP parent. Parents of students in gifted and talented programs, however, are otherwise eligible to serve on the council like any other parent. Finally, the DOE did not accept the suggestion to allow more than one parent representative from each school because the governance law expressly states that in establishing a selection process for the CECs, the Chancellor “shall ensure that, to the extent possible, a school may have no more than one parent representative on the [CEC].” N.Y. Educ. Law § 2590-c(8)(c).

The DOE has made no significant changes to the proposed regulation. However, four minor changes have been made. The first change corrects a typographical error. In the last bullet point in the summary of changes section, the footnote reference now says n.10, rather than n.11.

The second change was made to clarify section V.A.3. and to ensure consistency throughout the regulation. When the regulation was initially posted, the first sentence of section V.A.3. stated as follows: “In selecting members for the CEC, the selectors must ensure that nine of the parent (voting) members are parents of children attending a school *in the community school district*, or parents of children who have attended a school under the jurisdiction of the community district within the preceding two years.” The sentence now reads: “In selecting members for the CEC, the selectors must ensure that nine of the parent (voting) members are parents of children *attending a school under the jurisdiction of the community school district*, or parents of children who have attended a school under the jurisdiction of the community district within the preceding two years.”

Finally, the third change clarifies the process for filling vacancies that exist on CECs between the effective date of this regulation and the next CEC selection in May 2011. The proposed amended regulation as originally posted provides that any vacancy that exists on a

council that does not already have a member who is an IEP parent or a member who is an ELL parent must be filled with a parent having such a qualification. Language has now been added to require that the CECs consult with the Citywide Council on Special Education and the Citywide Council on English Language Learners, as appropriate, in filling these vacancies. However, if a vacancy must be filled with an ELL parent at anytime before the members of the Citywide Council on English Language Learners take office in July 2010, no such consultation is required. Additional language has also been added to clarify the process for filling these vacancies when a CEC has only one vacancy to fill, but neither an ELL parent nor an IEP parent is already represented on the council. The regulation now states, "Where there is only one vacancy to be filled and the council does not already have both an IEP parent and an ELL parent, the CEC shall select one IEP parent and one ELL parent from among the candidates and then select a member by lot from among those two candidates." The regulation will be presented to the Panel for Educational Policy with these changes.

Finally, to ensure consistency with the governance law and proposed Chancellor's Regulation D-170, the DOE has changed the definition of English language learner that was initially provided in the proposed amendments. As originally posted, footnote six of the regulation defined the term English language learner as "a student who speaks a language other than English at home and scored below proficient on English assessments when they entered the school system." The definition now states, "An English language learner is a student who is enrolled in a bilingual or English as a second language program."

A copy of the regulation can be obtained at:

<http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/Regulations>