

Category: **STUDENTS**

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Subject: SIGNIFICANT CHANGES IN SCHOOL UTILIZATION

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## **ABSTRACT**

In 2009, the New York Education Law was amended to require a public review and comment process on all proposals by the Chancellor to close a school or make a significant change in school utilization. The law was also amended to give the New York City Board of Education (hereinafter referred to as the Panel for Educational Policy (PEP)) authority to approve all proposals by the Chancellor to close a school or make a significant change in school utilization. This regulation implements these amendments to the law.

### **I. DEFINITIONS**

- A. For proposals concerning elementary, intermediate, and middle grades, “affected community school district” shall refer to the community school district in which the school that is the subject of the proposal is located. For proposals concerning high school grades, the term shall mean the borough in which the school that is the subject of the proposal is located.
- B. The terms “affected school” and “impacted school” refer only to the individual instructional organization identified for direct action in the proposal and any school subject to a new co-location as a result of the proposed action. In the case of a proposal to expand the grade configuration of a school, the term shall also mean any schools co-located with the school being expanded.
- C. The terms “affected students” and “affected parents” refer to those students and parents of those students enrolled in any impacted school at the time a proposal for a school closure or significant change in school utilization is made.
- D. For proposals concerning elementary, intermediate, and middle grades, the term “impacted Community Education Council” or “impacted CEC” shall refer to the Community Education Council (CEC) representing the community school district in which the affected school is located. At the high school level, the term shall mean the Citywide Council on High Schools.
- E. “Impacted community boards” shall include, for proposals concerning elementary, intermediate, and middle schools, those community boards whose boundaries fall within the geographic confines of the community school district in which the affected school is located. For proposals concerning high schools, the term shall include those community boards that are located within the borough in which the school that is the subject of the proposal is located.
- F. A “parent” is defined as a parent (by birth or adoption, step-parent or foster parent), legal guardian, or person in parental relation to a child. A person in parental relation to a child is a person who is directly responsible for the care and custody of a child on a regular basis in lieu of a parent or legal guardian.

- G. A “significant change in school utilization” shall mean the phase-out, grade reconfiguration, re-siting, or co-location of schools in currently utilized school facilities. A “significant change in school utilization” shall not include changes to school-based programs, changes to zoning lines, or the placement/siting of programs in facilities currently utilized by schools or other programs.

**II. PROCEDURES FOR PUBLIC REVIEW AND COMMENT ON THE CHANCELLOR’S PROPOSALS FOR SCHOOL CLOSINGS AND CHANGES IN SCHOOL UTILIZATION**

A. Educational Impact Statement

1. When the Chancellor proposes to close a school or make any significant change in school utilization (i.e., the phase-out, grade reconfiguration, re-siting, or co-location of schools) he or she shall prepare an educational impact statement. Such educational impact statement shall include, where applicable:
  - a. The current and projected student enrollment of the affected school;
  - b. The prospective need for such school building;
  - c. The ramifications of such school closing or significant change in utilization upon the community;
  - d. Initial costs and savings resulting from the school closing or significant change in utilization;
  - e. The potential disposability of any closed school;
  - f. The impact of the proposal on affected students;
  - g. An outline of any proposed or potential use of the school building for other educational programs or administrative services;
  - h. The effect of the school closing or change in utilization on personnel needs, the costs of instruction, administration, transportation, and other support services;
  - i. The type, age, and physical condition of the school building, maintenance, and energy costs, recent or planned improvements to such school building, and such building’s special features;
  - j. The ability of other schools in the affected community district to accommodate students following the school closure or change in utilization; and
  - k. Information regarding the school’s academic performance, including whether such school has been identified as a school under registration review, a school requiring academic progress, a school in need of improvement, or a school in corrective action or restructuring status.
2. At least six months in advance of the first day of the school year in which the closure or change in utilization is to take effect, the Chancellor shall publish the educational impact statement on the DOE’s official internet website and file a copy of the

educational impact statement with the PEP, the impacted Community Education Council (CEC), the impacted community boards, the community superintendent, and the School Leadership Team (SLT) of the impacted school.

3. The community superintendent of the community school district, or, in the case of a proposal concerning a high school the High School Superintendent, for the borough impacted by a proposed school closing or significant change in school utilization shall provide notice of such proposal and any subsequent revised proposal to all impacted parents, directly or via the affected school's administration. Such notice shall include information as to where a copy of the educational impact statement or revised educational impact statement if applicable, may be obtained and the date and location of any joint public hearing on the proposal or revised proposal (See section II.B.).

#### B. Joint Public Hearing

1. For all proposals to close a school or to make a significant change in school utilization, the Chancellor<sup>1</sup> shall hold a joint public hearing with the impacted CEC and the SLT at the school that is the subject of the proposal. The Chancellor shall post notice of the joint public hearing on the DOE's official internet website and provide notice to all affected parents and students. In addition, the Chancellor shall notify the community boards and the elected state and local officials who represent the affected community district. All interested parties shall be given an opportunity to comment on the proposal.
2. Such joint public hearing shall be held no sooner than thirty (30) days, but no later than forty-five (45) days after the filing of the educational impact statement.
3. After receiving public input, the Chancellor may exercise his or her authority to substantially revise the proposed school closing or change in utilization, provided the revised proposal does not impact any school other than those schools identified in the initial educational impact statement. In the event the Chancellor decides to revise the proposal significantly, he or she shall prepare a revised educational impact statement in the form set forth in section II.A.1. of this regulation. The revised educational impact statement shall be published on DOE's official internet website and a copy shall be filed with the impacted CEC, the impacted community boards, the community superintendent, and the SLT.
4. No sooner than fifteen (15) days after the filing of the revised educational impact statement, the Chancellor or Deputy Chancellor, or in the case of a proposed significant change in school utilization the Chancellor or his or her designee, shall hold a joint public hearing with the impacted CEC and SLT at the school that is the subject of the revised proposal. All interested parties shall be given an opportunity to comment on the revised proposal. Notice of the joint public hearing shall be provided in the manner set forth in section II.B.1.

#### C. Approval by the PEP

1. The Chancellor shall submit all proposals for school closings or significant changes in school utilization to the PEP for approval.
2. Before the PEP can approve any proposal for a school closing or significant change

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<sup>1</sup> For proposed school closings, the public hearing shall be held by the Chancellor or Deputy Chancellor and the impacted CEC and SLT. In the case of a proposed significant change in school utilization, the hearing shall be held by the Chancellor or his or her designee and the impacted CEC and SLT.

in school utilization, the public shall be given an opportunity to submit comments on the proposal. At least forty-five (45) days in advance of the PEP's vote on such proposal, the PEP shall publish a notice of the proposal on the DOE's official internet website and specifically circulate the notice to all community superintendents, CECs, community boards, and SLTs. Such notice shall include:

- a. A description of the subject, purpose, and substance of the proposal;
  - b. Information as to where the full text of the educational impact statement may be obtained;
  - c. The name, office, address, e-mail address, and telephone number of a city district representative knowledgeable on the item under consideration from whom any information may be obtained concerning such proposal;
  - d. The date, time, and place of any hearing on the proposal;
  - e. The date, time, and place of the PEP meeting at which the PEP will vote on the proposal; and
  - f. Information as to how to submit oral or written comments regarding the proposal.
3. If the Chancellor's proposal for a school closing or significant change in school utilization is substantially revised at any time following public notice of the proposal by the PEP, the PEP shall issue a revised public notice at least fifteen (15) days in advance of any PEP vote on the proposal. The revised public notice shall include:
- a. A description of the subject, purpose, and substance of the revised proposal;
  - b. Identification of all substantial revisions to the proposal;
  - c. A summary of all public comments received on the proposal following the initial public notice;
  - d. Information as to where the full text of the revised educational impact statement may be obtained;
  - e. The name, office, address, e-mail address, and telephone number of a city district representative knowledgeable on the item under consideration from whom any information may be obtained concerning such proposal;
  - f. The date, time, and place of any hearing on the revised proposal;
  - g. The date, time, and place of the PEP meeting at which the PEP will vote on the revised proposal; and
  - h. Information as to how to submit oral or written comments regarding the revised proposal.
4. After the period for public comment has ended and before the PEP votes on the proposal, the PEP shall publish on the DOE's official internet website an assessment of all public comments concerning the proposal received prior to twenty-four (24)

hours before the PEP meeting at which the proposal is subject to a vote. Such assessment shall include:

- a. A summary and analysis of the issues raised and significant alternatives suggested;
  - b. A statement of the reasons why any significant alternatives were not incorporated into the proposal;
  - c. A description of any changes made to the proposal as a result of public comments received; and
  - d. Information as to where the full text of the educational impact statement or revised educational impact statement may be obtained.
5. Proposals approved by the PEP shall not take effect until all applicable provisions of this regulation have been satisfied and the school year in which the PEP granted approval has ended.

### **III. PROCEDURES FOR EMERGENCY SCHOOL CLOSINGS, PHASE-OUTS, GRADE RECONFIGURATIONS, AND RE-LOCATION AND CO-LOCATION OF SCHOOLS**

- A. The Chancellor may temporarily close a school or adopt a significant change in a school's utilization on an emergency basis if he or she determines such action is immediately necessary to preserve student health, safety, or general welfare.
- B. The Chancellor shall provide a written statement setting forth the reasons for the emergency action and shall publish such statement on the DOE's official internet website.
- C. An emergency closing or change in utilization shall only remain in effect for up to six months, during which time the Chancellor shall comply with the requirements set forth in this regulation. Before an emergency closing or significant change in utilization can extend beyond the six month period, all requirements of this regulation must be met.

### **IV. EFFECTIVE DATE**

This regulation shall take effect on the day following approval by the PEP.

### **V. INQUIRIES**

Inquiries pertaining to this regulation should be addressed to:

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212 -374- xxxx

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