

**By-Laws of the
Panel for Educational Policy
of the Department of Education of the
City School District of the
City of New York**

PREAMBLE

The Board of Education of the City of School District of the City of New York is created by the Legislature of the State of New York and derives its powers from State law.

The thirteen member body designated as the Board of Education in section 2590-g of the Education Law shall be known as the Panel for Educational Policy. The Panel for Educational Policy is 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 school boards, principals, and school leadership teams. Together this structure shall be designated as the Department of Education of the City of New York.

The members of the Panel for Educational Policy are appointed according to law as follows: one member is appointed by each Borough President, eight members, including the Chancellor who serves as chairperson, are appointed by the Mayor. All members serve at the pleasure of the official who appointed them.

A vacancy in the Panel for Educational Policy shall, by law, be filled by appointment by the appropriate Borough President or the Mayor.

The bylaws of the Panel for Educational Policy set forth rules by which the Panel governs the conduct of its official business and affairs.

ARTICLE 1

Members of the Panel for Educational Policy

Section 1.1 Chancellor's Functions as Chairperson of the Panel for Educational Policy

The Chancellor of the City School District of the City of New York shall be the Chairperson of the Panel for Educational Policy, as provided by law.

The Chancellor shall:

preside at all meetings of the Panel for Educational Policy and perform all duties assigned to him/her by law and these bylaws;

appoint all committees except as otherwise determined by the Panel for Educational Policy, and be an ex officio member of all committees;

vote on all matters before the Panel for Educational Policy except for appeals from determinations by the Chancellor;

have custody of the corporate seal;

perform other such duties and assume other such offices, as are prescribed by law or as directed by the Panel for Educational Policy.

Nothing in these by-laws shall be construed to affect the powers and duties conferred by law directly on the Chancellor as the chief executive officer of the City School District.

1.1.1 Absence or disability of the Chancellor

The Chancellor shall designate two Deputy Chancellors who shall serve as first and second alternates to perform the duties and powers of the Chancellor as Chairperson of the Panel for Educational Policy with regard to setting the agenda and presiding at meetings of the Panel in the event of the absence or disability of the Chancellor, or in the event of a vacancy in the office of Chancellor. Such Deputy Chancellors shall not have a vote in the deliberations of the Panel.

Section 1.2 Other Panel Members - Functions

The members of the Panel for Educational Policy other than the Chancellor shall perform those duties and have those responsibilities assigned to them by law and by action of the Panel for Educational Policy itself, including the responsibility to advise the Chancellor on matters affecting the welfare of the city school district and its pupils, including the following:

- Approve standards, policies, objectives, and regulations proposed by the Chancellor directly related to educational achievement and student performance.
Education Law § 2590-g (1)(a)

- Consider and approve any other standards, policies, objectives, and regulations as specifically authorized or required by state or federal law or regulation.¹
Education Law § 2590-g (1)(b)
- Review and approve all labor union collective bargaining agreements.
Education Law § 2590-g (2) & NYS Civ. Serv. §§ 201 (6)(a) & (11).
- Serve as the appeal board for statutorily-identified actions of the Chancellor involving, for example, the removal of a community district education council member or community superintendent.
Education Law § 2590-l
- Maintain such jurisdiction over city-wide educational policies governing the special, academic, vocational, and other high schools as authorized by law, which shall not be construed to require or authorize the day-to-day supervision or the administration of the operations of such schools.
Education Law § 2590-g (4)
- Approve contracts that would significantly impact the provision of educational services or programming within the district.
Education Law § 2590-g (5)
- Approve litigation settlements only when such settlements would significantly impact the provision of educational services or programming within the district.
Education Law § 2590-g (6)
- Adopt an estimate of the total sum of money deemed necessary for school operations in the next fiscal year (other than functions financed from funds provided for in the city's capital budget).
Education Law § 2590-q (4)(a)
- Approve the objective formulae (developed by the Chancellor in consultation with the community district education councils, community superintendents and the mayor) for allocating funds among community districts and their schools.
Education Law § 2590-r (a)
- Approve the capital plan proposed by the Chancellor after consultation with the community district education councils. Following Panel approval, the capital plan is submitted to the Mayor and City Council for their approval. The Mayor consults with the Chancellor and Panel before recommending an appropriation on which the City Council then votes. If the authorized appropriation for funding the 5-year capital plan (which is incorporated into the City's capital plan) differs from the initial cost estimated by the Panel, the capital program of the Panel must be amended to reflect the funding.

¹ Effective beginning June 30, 2009: Approve standards, policies, objectives and regulations directly related to maintaining the internal fiscal integrity of administrative operations by the Chancellor, the community districts, and the schools.
Education Law § 2590-g (1)(b)

Subsequently, if the Chancellor recommends reductions in or additional appropriations or submits amendments to an approved 5-year educational facilities capital plan, it must be with the Panel's approval. Also, if the city appropriates less than the amount proposed to be funded in the approved capital plan or if an appropriation is reduced below a certain level, the Chancellor shall prepare and the Panel shall approve an amendment to the plan reflecting the reduced amount.

Education Law § 2590-p (3)(b),(4) and (5)(a) and (c).

- Review the monthly performance reports submitted by each community district educational council, which must include each member's attendance record, participation in committees and other activities, visits to schools, and voting record on major issues and consolidate the reports into a single district-wide report, which must be disseminated semi-annually to the community and to the media.
Education Law § 2590-c (9)(a) and (b)
- Consider modifying community district boundaries as directed by law.
Education Law § 2590-b (2)(b) and (c)
- As directed by law, establish and serve as Board members of the Board of Education Retirement System ("BERS"), a retirement system for employees other than teachers, and adopt appropriate rules and regulations for the government, management and control of the retirement of those employees. Education Law § 2575 (1)(a)
- Appoint five trustees to the Board of the Fashion Institute of Technology, which may include one Panel member.
Education Law § 6306 (3) and (1)

Section 1.3 Non-Voting Student Advisory Members

Non-voting student advisory members shall consist of two high school students selected by the Chancellor's High School Student Advisory Council. The advisory members may attend all public meetings of the Panel for Educational Policy but shall have no vote. The terms of the non-voting student advisory members shall begin on July 1st and end on June 30th of the following year.

Section 1.4 Committees of the Panel for Educational Policy

Section 1.4.1 Appeals Committee

There shall be an Appeals Committee comprised of all members of the Panel for Educational Policy other than the Chancellor. The Appeals Committee shall elect its own Chairperson, who shall be responsible for calling meetings of the committee as needed. The Appeals Committee shall hear appeals of actions taken by the Chancellor, where such appeals to the board of education are authorized by sections 2590-g, 2590-l, and 2590-i(2)(a) of the Education Law. Where authorized by law, the Committee shall establish a procedure for the appointment of a panel of committee members to review appeals and make recommended findings to the full Committee.

Section 1.4.2. Other Committees

The Panel for Educational Policy may have additional committees which shall be appointed by the Chancellor in accordance with these bylaws. Committees of the Panel for Educational Policy may include advisory members of the committee with no voting rights. An advisory member(s) may be affiliated with the public, private, or non-profit sectors.

Section 1.5 Secretary-Functions

1.5.1 Secretary's appointment and duties.

Chancellor shall appoint a Secretary of the Panel for Educational Policy, who shall:

- have charge of the books, papers and documents of the Panel for Educational Policy;
- keep the minutes of the Panel for Educational Policy and such other minutes as the Panel for Educational Policy may direct;
- distribute and/or post on the Department's web page copies of the minutes of calendar meetings to Panel members within 14 days of such calendar meetings;
- review and process in accordance with appropriate directives all appeals to the Panel for Educational Policy filed in accordance with law, and be the clerk of the appeal board in accordance with regulations of the Commissioner of Education, part 113; and
- perform such other duties as the Chancellor and the Panel shall require including providing appropriate follow-up information as requested at open meetings or executive session within a reasonable time of the request.

1.5.2 Secretary's absence

When the Secretary is not present at any meeting, the Secretary's duties shall be performed by a designee of the Chancellor.

Section 1.6 Panel Review and Assessment

Each year, the Panel shall conduct, in executive session, a review, evaluation and assessment of the Panel's role and functions for the purpose of identifying and implementing changes that will improve its effectiveness.

ARTICLE 2

Meetings

Section 2.1 Types of Panel for Educational Policy Meetings

Meetings shall be open to the public except to the extent permitted by law. The Panel for Educational Policy may adjourn a meeting or recess a meeting by agreement of a majority of those members attending a meeting. Upon announcing an adjournment or a recess, the Chancellor shall also announce an estimated date and/or time for reconvening the Panel for Educational Policy into public session.

2.1.1 Calendar Meetings

These meetings are held to take official action, in public, on matters for which the Panel for Educational Policy is responsible. At calendar meetings, business shall be the consideration of the resolutions, communications and other appropriate matters as described in the calendar accompanying the meeting notice. No other matters shall be considered except by consent of a majority of the members present.

At calendar meetings an opportunity may be provided for public comment regarding action items prior to a vote on such action items.

Meetings will be held at a time to be established by the Chancellor.

2.1.2 Public Agenda Meetings and Public Hearings

These meetings are held to encourage maximum participation of the general public in the work of the Panel for Educational Policy. At these meetings, the Panel 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 Chancellor.

2.1.3 Special Calendar Meetings and Adjourned or Recessed Meetings

Special calendar meetings may be held on the call of the Chancellor, provided that written notice of such meeting shall be given to each member, not less than twenty-four (24) hours in advance and shall state the matters to be considered. No other matters may be considered at said meetings, except with the consent of all members present.

Meetings may be reconvened to continue the work of an adjourned or recessed meeting.

2.1.4 Change in Date or Time and Cancellation of Meetings

A meeting of the Panel for Educational Policy may be changed to a stated date and time at the direction of the Chancellor.

2.1.5 Place of Meetings

All calendar meetings of the Panel for Educational Policy and public agenda meetings shall be held at a place to be determined by the Chancellor.

2.1.6 Notification

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

Section 2.2 Quorum

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

The Panel for Educational Policy shall act at its calendar and special meetings by a majority of the whole Panel for Educational Policy.

The Panel for Educational Policy shall act at executive sessions to the extent permitted by law by a majority of the whole Panel.

A committee of the Panel for Educational Policy shall act at committee meetings by a majority of the committee, to the extent permitted by law.

Section 2.3 Conduct of Meetings

The Chancellor shall promulgate procedures for the conduct of all public meetings and public hearings. The Panel for Educational Policy reserves the right to alter the procedures at any meeting in order to assure that the business of the meeting will be completed.

2.3.1 Presiding Officer

The Chancellor, or in his/her absence, the Deputy Chancellor designated by the Chancellor for such purpose, shall preside at all meetings of the Panel for Educational Policy. In case the Chancellor and such Deputy Chancellor shall not attend at the time appointed for any meeting of the Panel for Educational Policy, the Secretary shall call the roll, and on the appearance of a quorum, shall call the Panel to order, when a president pro tempore shall be appointed by the Panel for that meeting or until the appearance of the Chancellor or Deputy Chancellor.

Section 2.4 Parliamentary Procedures

The presiding officer shall decide all questions of order.

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 Panel. 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.

If the Panel for Educational Policy does not complete the business items of a calendar meeting, the Chancellor may adjourn or recess the meeting to a specified date and time, or instruct the Secretary to reschedule the unfinished business at the next regular calendar meeting or at a special meeting.

Section 2.5 Construction of Calendar

All resolutions requiring Panel for Educational Policy action shall be submitted to the Office of the Secretary in accordance with procedures developed by the Chancellor.

Panel members may request that items be placed on the calendar by notifying the Secretary in writing no later than 48 hours prior to the deadline for the preparation of the calendar.

Any item which is not submitted in accordance with these procedures may be withheld by the Secretary and will appear on the calendar for the subsequent meeting.

The Secretary shall prepare a calendar for that meeting and no items shall be considered that are not calendared except as otherwise provided in the bylaws. To the extent practicable, all items that require Panel action shall be presented no later than 10 days prior to the regular meeting.

Upon motion of any member of the Panel for Educational Policy, an item may be added to the calendar at the meeting by majority vote of those present.

To the extent practicable, the Secretary shall deliver the calendar for each business meeting along with all available supporting materials to each member of the Panel for Educational Policy at least ten (10) business days in advance of the meeting, except in the case of a special meeting called under extenuating circumstances when materials shall be delivered at least twenty-four (24) hours in advance.

ARTICLE 3 Bylaws

Section 3.1 Adoption-Amendment-Repeal

Bylaws shall be adopted, amended or repealed by vote of the majority of the Panel for Educational Policy.

Section 3.2 Suspension

Bylaws may be suspended 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 Panel for Educational Policy. Only those suspensions so enacted and recorded in writing shall have official status as representing the position of the Panel for Educational Policy.

ARTICLE 4

Personnel

Section 4.1 Sabbatical Leaves of Absence

Sabbatical leaves of absence with pay may be granted by the Chancellor to eligible personnel in accordance with policies of the Panel for Educational Policy. For community school districts, the community superintendent may grant such leaves in accordance with policies of the Panel and regulations of the Chancellor.

Such sabbatical leaves may be terminated by the Chancellor or community superintendent prior to the initially established expiration dates thereof.

Such sabbatical leaves may be canceled by the Chancellor or community superintendent when the application for cancellation is received prior to the first school day of the period of such leave.

Section 4.2 Removal-Suspension-Trial of Charges

4.2.1 Charges

Charges may be preferred against any employee for:

unauthorized absence from duty or excessive lateness;

neglect of duty;

conduct unbecoming his/her position, or conduct prejudicial to the good order,

efficiency or discipline of the service;

incompetent or inefficient service;

violation of the bylaws, rules or regulations of the board of education; or

any substantial cause that renders the employee unfit to perform his/her obligations properly to the service.

4.2.2 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.

4.2.3 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 preferal of charges against an employee shall not prevent the inclusion in the trial of additional charges and specifications, provided the employee is informed thereof.

4.2.4 Default or Waiver by Employee

If a pedagogical employee waives the right to a hearing pursuant to a section 3020-a of the State Education Law, the Panel for Educational Policy 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 section 3020-a of the State Education Law.

4.2.5 Decision on Charges After Trial

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.

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.

4.3 Reviews related to Ratings and/or Recommendations re Probationary Service of Pedagogical Personnel

4.3.1 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.

4.3.2 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.

4.3.3 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 Panel for Educational Policy 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.

Section 4.4 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 5 Appeals

Section 5.1 Rules and Regulations

All appeals to the Panel for Educational Policy 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 and regulations for the processing of appeals with the approval of the Panel for Educational Policy.

ARTICLE 6 Contracts and Settlements

Section 6.1. Contracts

Prior to entering into a contract that would significantly impact the provision of educational services or programming within the City School District, the Chancellor shall present the proposed contract to the Panel for Educational Policy for its approval.

Section 6.2. 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 Panel for Educational Policy for its approval.