



Advocates for Children of New York

Protecting every child's right to learn

August 24, 2017

Ralph A. Rossi II
SUNY Charter Schools Institute
41 State Street, Suite 700
Albany, New York 12207
Via e-mail: charters@suny.edu

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Re: Comments regarding proposed regulation on “Governance, structure and operations of SUNY authorized charter schools pertaining to teacher compliance”

Dear Mr. Rossi:

On behalf of Advocates for Children of New York (AFC), we are writing to comment on the proposed regulations regarding charter school teacher certification. We believe there is important work to be done across the State to strengthen teacher certification pathways, address shortages of qualified teachers in certain areas, and ensure there is an excellent teacher in every classroom. However, **we are concerned that the proposed regulations would run counter to these goals and would violate state law.**

For more than 40 years, AFC has worked to ensure a high-quality education for New York students who face barriers to academic success, focusing on students from low-income backgrounds. Each year, AFC helps thousands of families navigate the education system. In our casework, we have seen the critical role that the quality of a student's teacher plays in the student's education. We hear from parents of students whose teachers have played a transformative role in their education and their lives. However, we also hear from parents of students whose teachers are not equipped to meet their needs.

While it is important for state regulators to engage in discussions about how to make teacher preparation programs as effective as possible, and we support seeking innovative approaches to teacher preparation that focus on the skills that teachers need to be successful in the classroom, the State has a responsibility to ensure that *all* teachers are prepared to meet the needs of a range of learners, including students with disabilities and English Language Learners, and to address students' academic and social-emotional development.

The proposed regulations say that SUNY is proposing an alternative certification pathway because many schools with strong student performance “have had difficulty



hiring teachers certified in accordance with the requirements of the regulations of the commissioner of education.” Proposed 8 NYCRR § 700.4. However, we are concerned that the lax requirements of the proposed regulations are not consistent with research about effective teacher preparation and will not adequately prepare teachers to succeed in teaching students with a wide range of needs.

Moreover, the proposed regulations are not an appropriate forum for comments regarding potential alternative certification pathways, as they are a clear violation of state law.

The Charter Schools Act states unequivocally that charter school teachers “shall be certified *in accordance with the requirements applicable to other public schools.*” N.Y. Education Law § 2854(3)(a-1). The Charter Schools Act goes on to state that a certain number of charter school teachers are exempt from these requirements and specifies the criteria that such *uncertified* teachers must meet. *See id.*

While state law gives SUNY the authority to promulgate regulations regarding the charter schools that it authorizes, N.Y. Educ. Law § 355(2-a), a regulation is a statement that “implements or applies law.” N.Y. State Administrative Procedures Act § 102(2)(a)(i). Regulations must comport with and follow existing law.

Far from implementing or applying the law, the proposed regulations squarely contradict the charter schools statute. Instead of implementing rules to ensure that teachers are certified in accordance with the requirements applicable to other public schools, as required by the Charter Schools Act, the proposed regulations propose an “alternative certification pathway” that would allow certain charter school teachers to become certified in accordance with requirements that are *entirely different* from those applicable to other public school teachers.

The proposed regulations declare two times that the requirements of the alternative certification pathway “*are to be considered equivalent* to the certification requirements applicable to other public schools of the state” for the purposes of adhering to the Charter Schools Act. Proposed 8 NYCRR §§ 700.4(a), 700.4(c)(3) (emphasis added). But declaring that two different sets of requirements are equivalent does not make it so. The Charter Schools Act requires charter school teachers to be certified in accordance with the requirements applicable to other public schools, while the proposed regulations set forth an alternative pathway with different requirements available only to certain charter school teachers. This blatant attempt to circumvent the Charter Schools Act through regulations is troubling and must be rejected.



The Charter Schools Act states that “to the extent that any provision of [the Charter Schools Act] is inconsistent with any other state or local law, rule or regulation, the provisions of [the Charter Schools Act] shall govern and be controlling.” N.Y. Educ. Law § 2854(1)(a). Furthermore, charter school authorizers and the Board of Regents are prohibited from approving a charter application or renewal application unless it meets the requirements of the Charter Schools Act. §§ 2852(2)(a), (5-a). Thus, the Board of Regents could not approve a charter renewal for a school with teachers certified through a SUNY-approved alternative pathway that did not meet the requirements of the Charter Schools Act.

Although the Charter Schools Act makes clear that its provisions take precedence over any contradictory regulations, we are alarmed by the implications of having a charter school authorizer attempt to promulgate regulations that contradict the Charter Schools Act. The Charter Schools Act includes provisions regarding health and safety, special education, and admissions, among other topics, and includes important protections for students. We are concerned about the possibility of future attempts to promulgate regulations that undercut these important legal rights. As SUNY develops additional regulations, we urge SUNY to ensure that its regulations are consistent with the statute. In the meantime, SUNY must reject the proposed regulations.

Ensuring that every classroom has an excellent teacher is critical. We look forward to opportunities to participate in conversations about how to achieve this goal in a manner consistent with the law.

Respectfully,

A handwritten signature in black ink that reads 'Kim Sweet'.

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A handwritten signature in black ink that reads 'Randi Levine'.

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