

New law expands required training

By **Brian M. Butry**
Communications Coordinator

New school board members will now be required to undergo training that will acquaint them with the powers, functions and duties of boards of education within one year of taking office.

Passed toward the end of this year's legislative session by the state Senate and Assembly, the measure exempts current school board members from the requirement. It was signed into law by Gov. David Paterson on Aug. 13 and will first impact newly-elected board members next July. Similar legislation was passed by the Assembly last year but stalled in the Senate.

NYSSBA supported the legislation. "School board members are lay people who have a responsibility to be well-versed in all aspects of their responsibilities," said NYSSBA President Florence Johnson. "Public education is rapidly changing and newly elected board members must learn to make effective and informed decisions based on highly specialized information."

In 2005, a law was passed that

required school board members and BOCES board members to complete a minimum of six hours of training on the financial oversight, accountability and fiduciary responsibilities of a school board member.

The new legislation, according to the bill sponsor's memo, will allow board members "to provide effective oversight and help a district meet its educational objectives and protect the public interest."

The sponsor's memo also recommends that veteran board members, though not required, "should be encouraged to take the training to refresh what they know."

There is not yet any established curriculum or set hours of instructions; those decisions rest with State Education Commissioner David Steiner.

NYSSBA Executive Director Timothy G. Kremer says the association is already working on a proposal to become the first approved provider of this training in the state.

"We have an opportunity to advocate for the type of high quality programs that our membership has come to depend upon from NYSSBA," said

NYS wins RTTT funds



Photo courtesy of New York State Executive Chamber
U.S. Secretary of Education Arne Duncan (left) and Gov. David Paterson discuss the nearly \$700 million dollars in Race to the Top funding for education at a news conference in Albany. See story, page 3.

Kremer. "I have met with Commissioner Steiner and I shared with him a preliminary outline of our program recommendations."

With an ever-changing regulatory and economic landscape, Kremer believes this will be an opportunity for

board members to keep pace while preserving community ownership of public schools.

"This fits right into our new *School Board U* concept," he noted. "This training is essential to preserving the tradition of school board leadership."

Guitar heroines



Photo courtesy of Tech Valley High School
Capital Region BOCES Assistant Superintendent Kathryn Gerbino (seated) and Eun-Yeung Chang of 1st Playable Productions play the video game Rock Band during a summer symposium on Games in Education. The event, held at Tech Valley High School, included a panel of children, 6 to 10 years old, speaking on what they've learned from games.

Schumer: Federal aid won't last forever

By **Marc Humbert**
Senior Writer

As soon as the Great Recession ends, so will the big checks from Washington, according to Sen. Charles Schumer.

The New York Democrat, instrumental in winning more than \$2.5 billion in federal stimulus funding for the state's schools in 2009 and in securing \$607 million for New York as part of a school jobs program this year, said those aid measures were recession-related and will almost certainly end when the economy picks up.

"If we are still in a recession, God forbid, two years from now, we would have to seriously consider doing it again," Schumer told *On Board* in an Aug. 30 interview.

But Schumer also said, "I do think we'll be out of it in two years."

As New York's senior senator, Schumer has been credited with playing a critical role in maneuvering the school

jobs bill through Congress. But he said the key to the measure's eventual passage was the pressure put on members of Congress by school board associations, teachers' unions and others.

The stimulus will provide \$10 billion nationally in federal funding to rehire, retain or replace teachers and

(See **SCHUMER** on page 8)

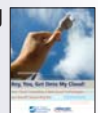
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COMMENTARY

An uphill 'Race'

When U.S. Secretary of Education Arne Duncan came to Albany last week he told teachers that their commitment to education reforms was "breathhtaking." But, he also admonished New Yorkers to "stop lying to children" by dumbing down our performance standards.



By Timothy G. Kremer
Executive Director

The topic is a sore one for our state. In a draconian but needed move, Education Commissioner David Steiner recently adjusted "cut scores" for grade 3-8 assessments so that students deemed "proficient" will fit a statistical profile for college readiness. In plain English, our grading had become too easy.

As a result, the portion of grade 3-8 students deemed proficient in math dropped from 86 percent to 61 percent. Those proficient in English language arts dropped from 77 percent to 53 percent.

And, despite a high priority placed on ending racial disparities, they continue. The percentage of African-American and Hispanic students meeting state standards is about half of white and Asian students. New York's graduation rate among black males is the lowest in the nation.

The Race to the Top is a remarkably effective federal grant program designed to get states to undertake various reforms endorsed by the Obama administration. The problem for school boards is they find themselves caught up in a race that they never really entered.

There is no question that the Race to the Top is an example of the kind of top/down reform that so often irks local leaders. Although most funding for schools remains local, our federal and state governments are making many if not all of the key decisions on how education reform should take place.

Parents and taxpayers don't care who makes the decisions as long as the right decisions are made. Are we sure commitments established in New York's Race application will work? Too early to tell.

Virtually everyone in our state's education community – especially teachers, principals and other administrators whose livelihoods are at stake – is nervous about joining the Race to the Top. They see before them a steep track built around many new things – new national standards, a statewide curriculum, tougher tests, unfamiliar data systems and yet-to-be-determined performance evaluations based, in part, on student growth and achievement.

Can school districts opt out of the Race? Practically speaking, no. No matter how much money your district receives (New York City will get the lion's share), reform-driven laws are on the books.

The challenge for every local school board and superintendent is to devise ways to thrive in what is essentially a new world in public education.

Consistent with the longstanding views of New

York's Board of Regents, the Race to the Top is built around the idea that college preparation should be a universal goal. Will everyone go to college? Of course not, but there are almost no job opportunities for high school dropouts, and the prospects for high school grads with no college are limited. So that makes sense.

Duncan is also correct in directing the most resources to the lowest performing schools, which have the farthest to travel to the finish line. Of course, this means aid for lesser need districts will not be abundant, especially spread across four years. While all districts are being called upon to change their ways, many will receive only a little bit of RTTT money to do so.

Then there is the growth of charter schools. Over the next four years, the cap on charter schools in New York will be raised from 200 to 460 – 10 percent of all public schools in the state. Charters will also share in the RTTT grant. In fact, you can assume that they are already sprinting to the starting block, anxious to compete for your students and operating funds.

But this is where Race to the Top might help NYSSBA achieve long-desired changes in state law. As the state has double-downed on its investment in charter schools as a vehicle of school reform and improvement, it seems to me that state leaders now have the political rationale – and duty – to offer charter school-like flexibility to all public schools. Why should charter schools be the only ones that can experiment with longer school days and school years? Traditional public schools need at their disposal the same everyday tools as charters, such as effective teacher discipline procedures and relief from expensive mandates and regulations.

That would allow all school districts to compete and all of our students to win.

The Race to the Top has begun in New York State. Let's make the most of it.

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SED mulling ways to spend RTTT money

By Marc Humbert
Senior Writer

With a nearly \$700 million federal Race to the Top award in hand, state Education

Commissioner David Steiner says he will be working with school districts over the next 90 days to determine exactly how the money will be spent.

"This is not a two-minute drill, this is a four-year opportunity," Steiner said at an Aug. 30 state Capitol news conference with U.S. Education Secretary Arne Duncan, Gov. David Paterson and others.

Steiner and Regents Chancellor Merryl Tisch have said about half the Race to the Top money will go to individual school districts. Most of that is expected to go to low-performing schools with New York City slated to receive about \$250 million.

Under federal rules, the Race to the Top funding is to be used for innovative

programs and not to plug state budget gaps – as has been done with the more than \$2.5 billion awarded to New York to help its schools as part of the national economic stimulus package adopted by Congress last year.

Duncan visited Albany as part of a two-week "Courage in the Classroom" bus tour in the wake of his announcement that New York, eight other states and the District of Columbia had won grants in Round 2 of the Race to the Top competition.

"This is something that New York absolutely earned," Duncan told the news conference as he praised state leaders for raising the cap on charter schools to 460 from 200 and authorizing a teacher evaluation system that will include student achievement on standardized tests as a factor.

State Assembly Speaker Sheldon Silver (D-Manhattan) said that in approving the changes, the Legislature served as

"a pit crew for our children in this Race to the Top."

That agreement, hammered out after New York lost out in Round 1 funding earlier this year, came only after charter school opponents and supporters and teacher unions made concessions.

Under the New York plan, the state will implement a data system that will track the progress of individual students from grade to grade, allowing administrators, teachers and parents to have a clear picture about progress or failures. And it will find new ways to improve poor schools.

"New York went through really Herculean efforts to change the law," U.S. Sen. Charles Schumer (D-N.Y.) told *On Board*. He said that he told Duncan that if New York's application were rejected, "it would say to every other state, 'Don't go through all these efforts to change your laws to meet the goals of Race to the Top, because you won't get it anyway.'"

"He understood that argument," Schumer added.

The Obama administration has already asked Congress for another \$1.35 billion to finance additional Race to the Top grants. In Round 1, only Delaware and Tennessee won awards, prompting a host of states, including New York, to make changes in their state laws.

In winning a Round 2 grant convincingly – only Massachusetts scored better – New York had surprised a host of skeptics. Other states winning Round 2 grants included Florida, Georgia, Hawaii, Maryland, North Carolina, Ohio and Rhode Island.

While New York's education community has welcomed the federal funding, school districts are struggling with a \$1.4 billion state aid cut this year and are facing the possibility of a further mid-year state aid reduction.

Test cost-cutting pared back

By Brian M. Butry
Communications Coordinator

The January Regents exams have been spared from the chopping block.

After announcing a bevy of proposed cuts to its assessment program to help close an \$11.5 million budget deficit in 2010-11, officials with the State Education Department (SED) have finalized their plan and included enough money to continue administration of the January 2011 Regents exams, and administration of the June 2011 foreign language Regents exam in Italian. There is also enough money to continue translating exams into Chinese, Haitian-Creole, Korean, Russian and Spanish.

However, the elimination of social studies exams for grades 5 and 8 as well as component retesting in math and English language arts will move forward. SED was also forced to end high school foreign language exams (except Spanish, French and Italian), the Grade 8 second language proficiency exams and the administration of August algebra 2/trigonometry and chemistry exams.

All told, this will save approximately \$6.4 million next year. But John King, the state senior deputy commissioner for education, warned that SED's testing program wasn't out of the woods yet when he announced the final plan in early August.

"The Regents will need to consider further deficit reduction actions in the fall," he said in a memo to local school officials. "As such, districts are strongly advised to develop alternative plans that anticipate the elimination of the January 2012 Regents exams, translations, and the administration of the June 2012

Italian Regents exam."

The use of paper-based scoring materials for Regents exams was also discontinued. SED will instead post these items and answer keys online. The department estimates another \$600,000 will be saved in printing and postage costs by asking school districts to download the materials themselves prior to scoring the tests.

In June, the state Board of Regents agreed to follow through with SED's cost-reduction plan.

Approximately 2.3 million students take at least one Regents examination each year: 1.9 million in June, 300,000 in January, and 100,000 in August.

The grades 5 and 8 social studies tests are currently taken by some 447,000 students statewide, according to SED. But that pales in comparison to the other grades 3-8 tests administered in math, ELA and science to some 3.5 million students.

"We don't want to make these cuts," King told the Regents during their June meeting. "But we also recognize that our assessment system has to be prioritized."

King and other SED officials met with a variety of stakeholders earlier this year, including NYSSBA, to receive input on which cost reduction strategies should be implemented first.

No consensus was reached, he said, other than the clear indication that the department avoid making cuts in assessments that would impact high school graduation.

NYSSBA has maintained that cutting any tests would have a negative educational impact on children. However, if any cuts were to be made it should be those that affect the least number of pupils and save the most money.

Paterson vetoes bill on teaching materials

By Quinn Morris
Governmental Relations Representative

Governor Paterson has vetoed a NYSSBA-supported bill that would have provided school districts with greater purchasing flexibility in the use of textbook aid.

The bill, vetoed Aug. 30, would have allowed school districts to use textbook aid – now used exclusively for textbooks – to purchase other curriculum and instructional resources that are "aligned with state standards used by students and teachers to support and enhance teaching and learning." Purchases of many software programs, manipulatives and other teaching aids could have qualified for such aid.

According to the governor's staff, the governor's objection stemmed from a concern that allowing schools to purchase a broader range of teaching aids would

encourage them to use more aid. The Division of the Budget estimated reimbursements would increase \$1 million annually.

"This is like the governor telling schools they can only buy typewriters because if they're allowed to buy computers, they might actually use the aid," said NYSSBA Governmental Relations Director David Little. "The governor is restricting schools to a learning tool that in many cases is inappropriate for today's learning standards. Given the amount the state spends on public education, \$1 million doesn't even show up as a fractional percentage. That's a small price to pay for learning tools that actually work."

The governor also vetoed several NYSSBA-supported bills that would have helped districts avoid financial penalties for paperwork mistakes.

NYSSBA Pulse Poll

NEW YORK STATE SCHOOL BOARDS ASSOCIATION

Do you favor an earlier start to the school year than the week after Labor Day?

Yes		39%
No		44%
Doesn't matter		17%

Source: NYSSBA Pulse Poll, August 2010

NYSSBA Pulse Polls are conducted monthly via e-mail. The questions above received 554 responses from school board members. Results are non-scientific.



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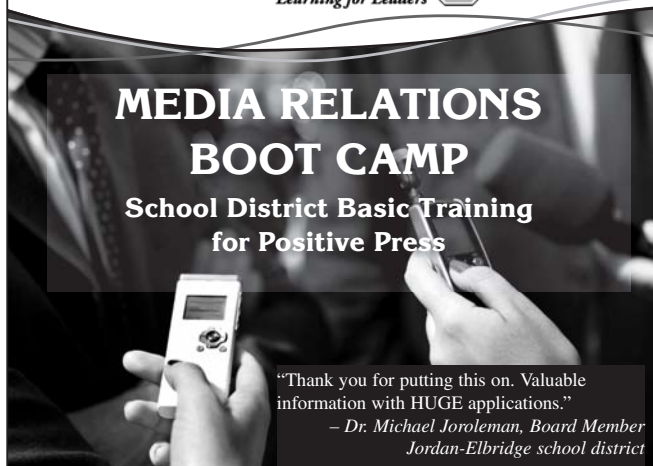
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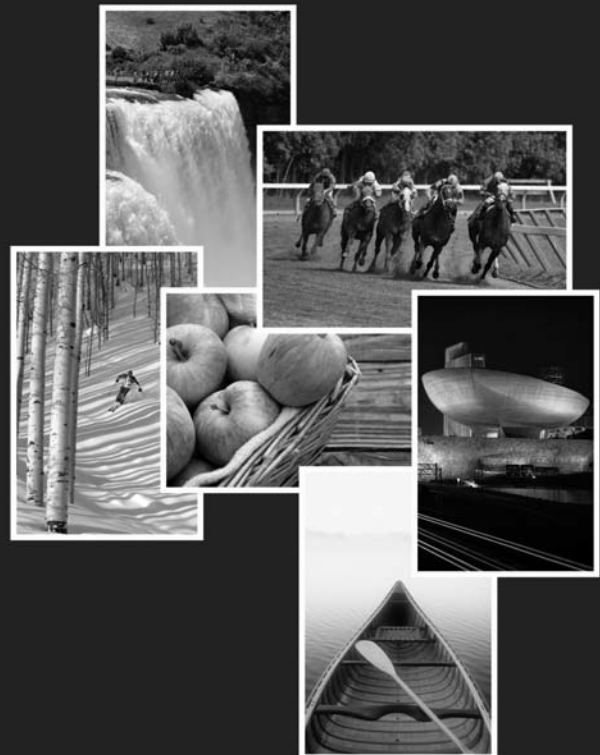


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You've heard of Twitter – how about Moodle?

Survey shows widespread use of cloud computing in school districts

By Paul Heiser
Research Analyst

Teachers in 99 percent of school districts in New York State said they use the Internet in student instruction. And teachers in nine of every 10 districts are using web-based educational software and tools to help with student assessment and evaluation, curriculum planning, and professional development.

These are findings from a survey of technology directors by NYSSBA and the New York State Association for Computers and Technologies in Education (NYSCATE). The survey addressed how districts are using cloud computing and other types of web-based technologies.

The Eastchester school district in Westchester County, for example, takes advantage of a free web-based instructional program called Moodle. Middle

What's cloud computing?

Like billions of people and thousands of businesses around the world, school districts are increasingly using cloud computing. And, chances are, they are finding it cheaper and more effective than the old, traditional ways of teaching students and communicating with the public.

NYSSBA and the New York State Association for Computers and Technologies in Education (NYSCATE) recently released a report, *Hey, You, Get Onto My Cloud! How Cloud Computing & Web-Based Technologies Can Benefit School Districts*. This report examines how cloud computing and other web-based technologies can be used in schools to guide instruction, communicate with students and parents, and save school districts money. Download the report and see a video at www.nyssba.org/cloudcomputingreport.

These articles highlight some of the key points from the report.

and high school teachers use Moodle to create websites for their courses where they can put resources for students to access, create chat rooms and discussion groups, and post links to other websites. A teacher might put an article (or a textbook chapter) on her Moodle site for

students to read, then set up a forum where students can discuss the material. Teachers may post online review quizzes for students to take, and see where students are having difficulties.

The Bethlehem school district in Albany County has two high-definition

videoconferencing stations where students can take virtual field trips to far-away places without ever leaving the classroom. Students in the district have taken virtual trips to places such as the Baseball Hall of Fame and the Cleveland Zoo.

Schools are also using web-based technology to communicate with the public. Many have websites they use to relay information such as school closings, lunch menus, transportation schedules, and school contact information. Some have private web portals, which are secure locations within a website that can be accessed only by certain people, such as students or parents. These may be used to post student grades or other confidential information.

The Queensbury school district in Warren County uses the popular Twitter website to share news on events, snow days, and other crucial information.

Pros and cons of cloud computing

Here is a sampling of pros and cons of cloud computing.

Pros

- Cloud computing can help school districts contain costs. Traditionally, school districts have bought customized software (such as word processors, e-mail, spreadsheets, and instructional programs), and computer hardware – called servers – with which to run them. When those software programs and equipment became out-of-date or obsolete, they had to update the software or replace it with something else.
- Instead of large investments in capital expenditures for expensive hardware, customized software, or other services that users might need, all that is required is an Internet connection. The only expense is for utility bills (electricity, etc.) or subscriptions if one of

the numerous free web-based software programs is not adequate.

- Web-based technologies can help students learn at their own pace and knowledge level by tailoring instruction to their individual needs, giving them access to instructional content and resources 24 hours a day, and preparing them for careers in a global economy.

Cons

A slow or poor Internet connection affects efficiency and hinders productivity for users of cloud computing. Other drawbacks:

- Cloud computing may not provide all the necessary programs and computing power needed.
- Cloud applications might not be as sophisticated as applications that can be run on and stored on a personal

computer.

- There are security concerns, such as protecting against threats to computer hardware and software and managing content downloads and access. Also, protecting students from inappropriate content is a common challenge for school districts. Cyberbullying also poses a challenge to schools, as does students posting personal data.

The Queensbury school district, for example, requires all sixth-graders to participate in a 10-week course on digital citizenship and cyber safety. As part of the course, students are trained in the “grammar of the web”— understanding web addresses, deciphering valid sites from “bad” sites, learning appropriate web behavior, and how to choose appropriate/safe user names.

– Paul Heiser, Research Analyst

Cloud computing quiz

What is a blog?

- A) The nickname of a disgraced former Illinois governor
- B) A contraction of the term “web log,” or a website with regular entries of commentary, descriptions of events, or other information
- C) The scientific name of the ink splatter on a Rorschach test

What is Study Island?

- A) A site built from New York State’s learning standards where students can prepare for standardized tests
- B) The latest reality show on MTV
- C) A detention room for students who don’t complete their homework on time

What is Animoto?

- A) The latest Japanese anime cartoon to hit Cartoon Network
- B) Quasimodo’s little brother
- C) A web application that automatically produces videos from user-selected photos, video clips and music

Answers and more questions online at www.nyssba.org/cloudcomputingreport.

Saving money with popular cloud computing services

This table provides a cost comparison between Microsoft Office and two

forms of cloud computing created by Google. All offer traditional office suite

applications, such as e-mail, word processing and spreadsheets.

Total # of users (staff and students)	Cost		
	Google Apps (Cloud)	Google Apps Enterprise (Cloud)	MS Office (In-house)
1,000	\$0	\$25,000	\$53,600
2,500	\$0	\$62,500	\$134,000
5,000	\$0	\$125,000	\$268,000
10,000	\$0	\$250,000	\$536,000

Sherrod's story is teachable moment

By Peggy Noonan

She was smeared by right-wing media, condemned by the NAACP, and canned by the Obama administration. It wasn't pretty, what was done to Shirley Sherrod.

And maybe something good can come of it. The thought occurred to me after reading her now-famous speech, which is about the power of grace and the possibility of redemption.

Here's a way to get some good. This September, when school begins, we should make the speech required viewing in the nation's high schools. It packs quite a lesson within quite a story.

You know the essential facts. On March 27, Sherrod, 62, Georgia director of rural development for the U.S. Department of Agriculture, spoke at an NAACP meeting in Coffee County, Ga. She was dressed in a dark suit with ivory lapels and cuffs, and the impression she gives in the video is of a person of authority. She came across like a person who has lived a life, not a media knock-off of a life but a real one.

And this is what she said. Forty-five years before, to the day, her father's funeral was held. He had been murdered by a white man in Baker County, Ga. These were still the bad old days; lynchings had taken place in her lifetime. The man who murdered her father "was never punished," even though there were three eyewitnesses. The grand jury refused to indict.

All this was told not in a tone of rage or self-pity but of simple remembered sadness: "My father was a farmer, and growing up on the farm my dream was to get as far away from the farm and Baker County as I could get." She worked "picking cotton, picking cucumbers, shaking peanuts. . . . Doing all that work on the farm, it will make you get an education." She wanted to escape. "The older folks know what I'm talking about."

Go North, she thought. She'd seen black people who'd moved up North return on vacation: "You know how they came back talking, and came back looking." The audience laughed. "I learned later some of those cars they drove home were rented." The audience laughed louder.

She was 17 when her father was killed, in 1965. After that, one night, a cross was burned on their lawn. Her mother had a gun, and black men from throughout the county came and surrounded the white men who surrounded the house. Shirley was terrified and hid in a back room, praying. That night something changed. "I made the decision that I would stay and work."

She wouldn't leave the South but change it. Here she addressed the youthful members of her audience: "Young people, I want you to know when you are true to what God wants you to do, the path just opens up, and things just come to you. God is good, I can tell you that."

But when she made her decision, "I was making that commitment to black people only." She didn't care about whites.

Almost a quarter-century ago, she was working for a farmers aid group when she was asked to help a couple named Roger and Eloise Spooner. They were losing their farm, and they were white.

Mr. Spooner made a poor impression. He "took a long time talking." She thought he was trying to establish a superior intelligence. "What he didn't know while he was talking all that time . . . was I was trying to decide just how much help I was gonna give him. I was struggling with the fact that so many black people had lost their farmland." So she did enough to meet her responsibilities, but no more. She took him to "a white lawyer," figuring "that his own kind will take care of him."

The lawyer took the farmer's money and, she said, did little else. She assumed things had been taken care of. But in May 1987, Spooner received a foreclosure notice and he called her, frantic. His house was to be sold a week later on the courthouse steps, and no motion had been filed to stop it.

They all met. The lawyer suggested the farmer retire. "I said, 'I can't believe you said that.'"

Indignant, she set herself to save the Spooners' farm. "That's when it was revealed to me that it's about poor versus those who have," not white versus black. "It opened my eyes." She worked the phones, reached out to those who could help, talked to more lawyers, called officials.

And she saved that farm.

"Working with him," said Sherrod, "made me see . . . that it's really about those who have versus those who don't." It's helping the frightened and powerless. "And they could be black, they could be white, they could be Hispanic."

She said that 45 years ago she couldn't say what she will say tonight: "I've come a long way. I knew that I couldn't live with hate, you know. As my mother has said to so many, 'If we had tried to live with hate in my heart, we probably be dead now.'" She said it was "sad" that the room was not "full of whites and blacks." She quoted Toni Morrison: We have to get to a point where

"race exists but it doesn't matter."

There is beauty in the speech, and bravery too. It was brave because her subject wasn't the nation's failures and your failures but her failures. The beauty is that it deals with the great subject of our lives: how to be better, how to make the world better. It's not a perfect speech — she's tendentious in her support for health care and takes cheap shots at Republicans. And it's not the poor versus the rich, it's the powerful helping the powerless. But it's good.

You know what happened. Someone cut the 45-minute speech down to less than two minutes, to the part in which she talked about not wanting to help white people. Andrew Breitbart ran it on one of his websites and made Sherrod look like a race-game-playing government bully.

It was trumpeted all over conservative media. The Obama administration panicked and forced her to resign. She wasn't even given a chance to explain.

And then the Spooners stepped in, and this time they saved her. Is Sherrod a racist, they were asked. "No way in the world," said Roger Spooner. "She stuck with us." Eloise: "She helped us, so we're helping her."

Then people started bothering to watch and read the whole speech.

So what are the lessons? That we're all too quick to judge. That we don't even let the evidence of our eyes stop us in our rush to judgment. You can't see and hear Sherrod and fail to understand that she's a thoughtful, serious person.

That we are not skeptical enough of what new media can cook up in its little devil's den. That anyone can be the victim of a high-tech lynching, and that because of this we have to be careful, slow down, look deeper. We live in a time when what you say is taped, and those tapes can be cut, and the cuts can be ruinous, and if you think it only happens to the rich and famous, think again. It's coming to a theater near you.

And for students? What can they learn? How about: Individuals can change, just like nations. They can get better, if they want to be.

What's more important than that? What do students need to hear more?

It really can be a teachable moment. It can.

Peggy Noonan is the author of seven books on American politics, most recently Patriotic Grace. This article originally appeared on www.wsj.com and www.peggynoonan.com. Reprinted with permission.



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New York State School Boards Association

Schumer: Pro-education groups helped pass stimulus

U.S. Sen. Charles Schumer (D-N.Y.) spoke with NYSSBA Senior Writer Marc Humbert on Aug. 30 about federal stimulus spending for education.

Q: Tell us about your role in the \$10 billion education jobs bill just approved by Congress that is set to bring \$607 million to New York.

A: Right from the beginning, I felt that it was extremely important to aid our schools directly. In fact, I was very much involved in the stimulus bill (approved by Congress in 2009) which aided the schools separately from FMAP (Federal Medicaid Assistance Percentage).

FMAP is a very good thing for our state, but there is no guarantee that any of the money would go to education. So, what we did in the stimulus bill was create a separate program, and the money had to go to school districts, so that they wouldn't have to lay off teachers and cut personnel or, in fact, raise taxes. And, it was a large success.

But, of course, it expired. And, even as early as last winter, school board members were talking about the disaster that would happen in September because the stimulus was gone, revenues were down, the public was in a difficult situation and many school board budgets could be rejected. And, even those that weren't rejected, the board had to be really careful. The talk of thousands and thousands of layoffs of teachers in New York in September was frightening.

So, a group of us put together this bill to try and deal with the problem. (Iowa Senator) Tom Harkin was chair of the education appropriations committee, and he worked really hard on this and deserves a lot of credit and kudos. And, I was one of the lead co-sponsors from the beginning. It started out as a \$23 billion bill, but because of the quirky and partisan ways of the Senate, the bill was whittled down to \$10 billion. And, it took a long time to pass.

We had to go to the school board associations, the teachers' unions and everybody else and say, "You've got to put pressure on and get us at least a few more senators who would support this bill." What was ironic here was there was no argument about deficits because we didn't just increase the debt. We cut other far less needed and more wasteful programs to pay for this. So, we thought when we did that, it would get broad, bipartisan support, but unfortunately it didn't.



File photo courtesy of U.S. Senate

Sen. Charles Schumer in a visit to Edward Williams Elementary School in Mount Vernon.

Q: So what was the key to getting it, finally?

A: The key to getting it, frankly, was the outside groups, including the school boards associations putting a lot of pressure on their senators.

This should have just passed on the merits, because if you look at it, it didn't increase the deficit or taxes by one plug nickel. And, if you ask Americans their priorities, education is at the top of the list - all the time, in every part of the country.

Q: Because of how long it took to get the bill approved, do you think the impact will be greatest in this school year or the next school year?

A: Because it took a long time - it was originally intended just for this school year, which I know gave districts some heartburn because they said what's going to happen next year? So, one of the few good things about the delay is that we changed the bill and said it could apply to either this school year or next school year, at the school board's discretion. It will be up to each school board, depending on their situation. Some will use more of it this year, and some will use more of it next year.

Of course, we are awaiting the governor and the Legislature going back to just allow it to happen. But, I think that will happen. I just hope it happens sooner rather than later.

Q: It sounds as if they are waiting until after the (Sept. 14 state) primary. Is that what you are thinking?

A: It looks like that.

Q: On the Race to the Top money. I gather you had a conversation with Secretary Duncan before the awards were made.

A: Oh yeah, I lobbied very heavily, once New York made its changes.

First, it is generally agreed that New York's first application was pretty good. But, the fact that the issues of teacher evaluation and charter schools didn't meet the Department of Education's satisfaction hurt our application. Of course, I think they played it that way. They only had two states that were chosen (as Round 1 winners), so they were telling you, "You have time to change and improve."

And, hey look, New York went through really Herculean efforts to change the law. And, as you know, it hung in the balance for a long time. But once New York changed the law, my major argument to Secretary Duncan - I had two points: One, we have an excellent application. But, second, if New York's application is rejected, it would say to every other state, "Don't go through all these efforts to change your laws to meet the goals of Race to the Top, because you won't get it anyway."

And, you know, there is probably no state that got more attention and more focus as the legislative process unwound. And, he was very amenable. He understood that argument. We were very, very much on top of the Department of Education.

I mean, the worry I had was that there would be more political (considerations) and (they would) chose presidential states that had the most electoral votes that are in play in presidential elections. But, to their credit, they didn't. It was pretty much an on-the-merits process.

Q: There was some thought they might choose states where Senate seats were in play.

A: None of that happened. Look at the states that were chosen, and that's clear.

Q: After the stimulus package last year and the Race to the Top this year, and the jobs package you got through this year, are we witnessing the permanent expansion of federal funding for local schools?

A: No. I have always supported aid to education. I think it is the most important thing we can do. Education will determine whether America stays the leading economic power in the year 2050. Influencing every single factor is the quality of our schools. We have the best economic system, but we've got to keep up educationally. If we have a well-educated labor force, no country, including China, will be able to come close to us because we are more entrepreneurial and all of that. But I have to say that I think most of these programs - not Race to the Top so much where the federal government is using dollars to influence policy, to help districts aspire to excellence - the other programs were done to deal with the recession.

Q: So you think they will go away?

A: Look, school boards will say, "OK, we can use this (money) in this fiscal year and next, but what about after that?" Well, my view would be, if we are still in a recession, God forbid, two years from now, we would have to seriously consider doing it again. I do think that we'll be out of it in two years.

Q: What do you think, in general, about the state of public schools in New York State?

A: It's a broad spectrum, but overall they are very good. Our suburban schools are among the best in the country, our rural schools are excellent and our city schools in many places, including New York City, are improving.

Q: What about this talk about you becoming (Senate) majority leader someday?

A: I am just focusing on doing good for New York, and doing good for the country. And, I do believe (current Senate Majority Leader) Harry Reid will win (re-election).

I am enjoying what I am doing. That's what counts.

Around the State

Law gives districts a pass on lever voting machines

School districts will get a pass for two years on laws ridding New York of lever voting machines, according to a bill signed by the governor this week.

Beginning with the September primaries, state boards of election are implementing modern optical scanning machines. The state law prohibited lever poll machines, but allows school districts to continue using those machines, if preferred, through the end of 2012.

Source: *Times Herald-Record* (8/18/10)

NYSUT balks at joining Cuomo bandwagon

New York State United Teachers (NYSUT) has declined to endorse Andrew Cuomo in his quest to become governor, an indication that NYSUT will square off against Cuomo as he pushes a fiscally conservative platform.

"Obviously, we could find little in common with (GOP challengers Rick Lazio and (Carl) Paladino, and in the case of Andrew Cuomo, you know, he's been a strong supporter of education, of labor and social justice in the past," said NYSUT President Richard Iannuzzi. "But, when we look at his positions now – especially on issues such as tax caps, constitutional convention and the size of the public work force – we have serious issues."

Iannuzzi said the union could revisit the endorsement issues, but also said "if nothing changes then this will remain our position going forward."

Source: *(Albany) Times Union* (8/12/10)

District to allow student to wear rosary beads

Three months after a middle school student was suspended for refusing to conceal his rosary beads, the Schenectady school district is revising its policy to allow Raymond Hosier Jr. to openly wear the religious symbol.

"We've decided to focus on what students do and not necessarily what they wear," said Board of Education President Catherine Lewis. "We're going to focus on disruptive behavior and that's what it boils down to."

The seventh-grader had been suspended for violating the district's code of conduct. At the time, district officials said the beads could be seen as gang-related. The student said they helped him stay connected to his deceased older brother.

A federal judge had ruled that Hosier could wear the rosary beads while his family and the district sought to resolve the issue.

Source: *(Albany) Times Union* (8/21/10)

NYC parent offended by voicemail left by school staffer

After expressing concerns to school officials about her 12-year-old being bullied, Toni Bosco of Queens says she was stunned to receive a phone message from a guidance counselor – apparently intended for another school staffer – in which the counselor insulted both Bosco and her son Andy.

"Umm, Andy's mother's a piece of s---. She hates [principal] Marcy [Berger], she hates you, she hates everybody," starts the message, which then turns to finding a special-education placement for Andy elsewhere.

"If I could in any way do it this summer and get him the f--- outta here, he's going," continues the message. "Enough – we can't save this kid. Andy just twists everything, and he's just impossible."

Bosco says what hurt the most about the unprovoked tirade was that the counselor was a staffer in whom her son had confided a lot of personal issues.

"This is someone we trusted, and we were betrayed," said Bosco.

Source: *New York Post* (8/16/10)

SCHUMER *(continued from page 1)*

other school employees whose jobs were lost or threatened by the recession. New York expects to get more than \$607 million from that program.

"It started out as a \$23 billion bill, but because of the quirky and partisan ways of the Senate, the bill was whittled down to \$10 billion," said Schumer. "And, it took a long time to pass."

"One of the few good things about the delay is that we changed the bill and said it could apply to either this school year or next school year, at the school board's discretion," Schumer added.

But before any of that can happen, the state Legislature must return to Albany and appropriate the federal dollars that will be doled out under the state's regular school aid formula under a deal worked out by Gov. David Paterson and legislative leaders.

Schumer said that while he has been pressing the state Legislature to act quickly on the funding, he does not expect that to happen until after the state's Sept. 14 primaries. All 212 seats in the state Senate and Assembly are up for election this year. And, Schumer said part of the reason for the delay is the hostility that has been a hallmark of the 2010 legislative session in Albany.

"Everyone agrees it should be done," said Schumer. "It's just getting all the ducks in a row after a nasty and tiring session."

While Albany has yet to appropriate

the federal funding, some school districts across the state have already begun to tinker with their staffing levels to take advantage of the new money.

On Aug. 30, the South Jefferson board of education unanimously approved a plan to use federal dollars to restore two elementary school teaching jobs.

"This will help us reduce class size, and I think this is where we should start," South Jefferson Superintendent Jamie Moesel told the *Watertown Daily Times*.

Schumer said that the federal funding, including the almost \$700 million New York just won in Round 2 of the Race to the Top competition (see related story page 3), comes at a critical time.

"Education will determine whether America stays the leading economic power in the year 2050 ... If we have a well-educated labor force, no country, including China, will be able to come close to us," said Schumer.

Schumer, who polls indicate is headed toward a third, six-year term in this year's elections, downplayed speculation that he could be in line to replace Harry Reid as Senate majority leader should the Nevada Democrat lose his own reelection bid in November.

"I am just focusing on doing good for New York, and doing good for the country," Schumer told *On Board*. "And, I do believe Harry Reid will win."

State offers free, online course on green cleaning

Looking to reduce the spread of communicable diseases, the New York State Office of General Services is offering a free, online training course aimed at schools and other public institutions.

The course is available through a simple registration process at <https://green-cleaning.ny.gov>.

"Over the last several years, the flu has had a major impact on school attendance," said OGS Commissioner John Egan.

"This online training course can help schools learn effective ways to reduce the spread of the flu without using potentially harmful chemicals and lower the number of classroom days lost due to illness of students and staff."

The latest online course, developed in conjunction with the state Health Department, brings to eight



the number of green cleaning tutorials available on the green cleaning website.

Source: *Staff report*

Immigration documents and admissions

Editor's Note: The New York Civil Liberties Union recently wrote to 139 school districts in New York State to ask them to drop requirements for immigration documents in their admissions process, and on Aug. 30 the State Education Department issued a memo clarifying what documents school districts may require in the admissions process. The article below summarizes the relevant laws – and gray areas – for school districts.

By the New York State Association of School Attorneys

The rules that determine immigrant children's access to public education in the United States send a mixed message. Although the U.S. Supreme Court's sweeping decision in *Plyler vs. Doe* permits foreign nationals without documentation to attend public school, the USA PATRIOT Act prohibits certain in-status visa holders (tourists and business visitors) from enrolling in school. The same federal law prevents certain academic visa holders (F-1 and M-1) from enrolling in school unless the school participates in a program called the Student and Exchange Visitor Information System (SEVIS).

Local school officials may find it difficult to understand which categories of foreign nationals are eligible to enroll in a public school and which are not, as well as what types of inquiry can be made at registration.

The general rule is that children are eligible to enroll in a public school district if they meet the residency requirements of that district. That includes all out-of-status foreign nationals as well as U.S. citizens, U.S. permanent residents, asylees, refugees and many foreign nationals holding lawful temporary status.

New guidance from SED

On August 30, the State Education Department (SED) published on its website a document entitled "Student Registration Guide." Addressing acceptable proof of age, residency, immunization, homeless students, and data collection, the guidance states that districts should not ask about student immigration status at registration.

But the guidance notes that several state and federal laws require SED or school districts to collect certain student demographic data. For instance, in order to receive funding under certain federal Title III programs, states and school districts must collect and report data on "immigrant children and youth" served. The guidance suggests that such information be gathered after a student has been enrolled.

The memo does not address the federal mandate against registration of holders of tourists and business visas, and only alludes to the existence of F and M student visa issues. It says related questions should be handled by a listed

federal agency.

Nor does the guidance address how a district should proceed if staff learn, after the fact, that the student's enrollment appears to be a violation of federal immigration law.

Plyler and the USA PATRIOT Act

The right of undocumented foreign nationals to enroll in their local school district was affirmed in 1982, when the U.S. Supreme Court invalidated a Texas statute that denied educational funding to districts that admitted illegal entrants. Emphasizing the innocence of such children relative to their lack of legal status and the special importance of education in American society, the High Court affirmed in *Plyler vs. Doe* that a state's withholding of education funds as a tool to prevent the enrollment of illegal entrants violated the Fourteenth Amendment's Equal Protection Clause. *Plyler* refers to "illegal entrants," but it is likely that the holding applies to all students without status, whether they entered illegally, or entered legally and then overstayed their period of admission.

While *Plyler* guarantees access to public education for out-of-status visa holders, children of holders of certain in-status temporary visas may not attend school. This is the result of the USA PATRIOT Act, which Congress passed in response to the pattern of activity of the 9/11 conspirators.

According to guidance from the Department of Homeland Security, issued both through the U.S. Citizenship and Immigration Services and U.S. Immigration and Customs Enforcement, these classes of student are ineligible to enroll:

- **B-1/B-2 visa holders.** B-1 and B-2 visa holders (tourists and business visitors) violate the terms of their B visa status if they enroll in public school.

- **F-1 student visa holders.** The F-1 student visa is commonly used to attend a U.S. college. F-1 status cannot be granted to attend public elementary schools or publicly funded adult education programs. F-1 status can be granted to attend a public U.S. high school for one academic year, but only if the student has paid the full, unsubsidized per capita cost of the education and the school has enrolled in the SEVIS visa-tracking program. However, the minor child of an F-1 student is eligible for derivative F-2 status and may attend elementary or secondary school without changing to another status, provided they establish district residence. Similarly, M-1 vocational students may only attend SEVIS-registered schools that offer a course of study compatible with their status.

But if holders of these temporary visas fall out of status, as occurs when a person stays past the end date of their visa, their children would be eligible to attend public schools in accordance with *Plyler*. In other words, this particular group of foreign nationals are not eligible to attend school if they are properly documented,

but become eligible to attend school if they become undocumented (when their visas expire). As illogical as that may sound, that is the state of the law. And Congress, unfortunately, has shown little interest in addressing this policy clash.

Based upon post-9/11 security concerns, the U.S. government created SEVIS (the Student and Exchange Visitor Information System) to track academic visa holders. This online system contains information on the physical presence and academic status of every F-1 (academic student), M-1 (vocational student), and J-1 (exchange student) in the country.

School participation in SEVIS is voluntary. Joining SEVIS involves a rigorous application process with site inspection and training of a DSO (designated school official). The DSO is charged with responsibility for monitoring, tracking, reporting, and recordkeeping of nonimmigrant foreign students. Participating schools are responsible for ensuring international students are maintaining lawful nonimmigrant status and reporting through SEVIS when they are not.

U.S. Immigration and Customs Enforcement has published a chart indicating which temporary visa holders may and may not attend public school: www.ice.gov/doclib/sevis/pdf/Nonimmigrant%20Class%20Who%20Can%20Study.pdf

Asking about immigration status

Plyler does not forbid asking about immigration status. The gist of the decision – that no barrier to education be erected against the undocumented – suggests that a status inquiry should be conducted in a way that does not chill a prospective student's access.

To assuage concerns among parents that public school enrollment could lead to deportation, districts could adopt a no-reporting policy.

With the exception of SEVIS participation, the author is not aware of any statute or regulation that requires a district to report information on the lack of immigration status of a student or family member to a government agency. This includes state reporting requirements stemming from the federal No Child Left Behind Act, as none of the mandatory "immigration" reporting would disclose type of immigration status or the absence of status. The mandatory disclosures include the date the student entered the U.S., the number of consecutive years that student has attended a U.S. school, country of origin, whether the student is a "migrant," and place of birth. None of these involve whether the student (or his or her family) has documented or undocumented status.

But a school board may be concerned that merely asking questions in this subject area could have a chilling effect on the enrollment of undocumented children. If the board adopts a "no reporting" policy, the policy should explicitly indicate that a child's status or absence of status would not be reported to the government by the

district. The district would meet its responsibility under NCLB, but the data requested under NCLB does not reveal anything about a student's status in the U.S.

If a district asks about immigration status, the questions should be phrased to obtain legitimate information, such as that required under NCLB. Other legitimate reasons for inquiry are: (1) to determine whether the individual is in a nonimmigrant category that requires the school to be a SEVIS participant in order to accept the student (e.g., F-1 or M-1), (2) to avoid enrollment of a student whose B visa status disqualifies them from enrollment, and (3) to help make a residency determination.

Immigration status and district residency

Although their decisions predate the 2002 PATRIOT Act restrictions on enrollment of visitor visa holders, the New York State Commissioner of Education and courts in New York State have held that B visa holders might be able to establish residence within a school district.

The commissioner has supported the proposition that the district may inquire into a student's immigration status to the extent it is relevant to the residency determination.

The child's status should be determined in accordance with the traditional test for residency, as long as his or her immigration status does not foreclose their ability to enroll.

It may be impossible for students to establish residence if they are living in the district for the sole purpose of school attendance. However, in *Appeal of Ramirez*, the commissioner ruled, "Where the sole reason the child is residing with someone other than the parent is to take advantage of the schools of the district, the child has not established residence."

Conclusion

Twenty years after *Plyler* opened public schools to the undocumented, the PATRIOT Act restricted access. Congress expected school districts to check the visa status of foreign nationals as part of the enrollment application process. While a new SED guidance states districts should not ask about immigration status in the admissions process, the law does not preclude a district from doing so as long as this does not create a chilling effect on enrollment of eligible out-of-status foreign nationals. It appears that the New York Civil Liberties Union has taken the position that merely asking for such information creates an illegal chilling effect on enrollment. Contact NYSSBA or your school attorney regarding your district's options.

Members of the New York State Association of School Attorneys represent school boards and school districts. Russell W. Roberts, of counsel at Harris Beach, PLLC wrote this article.



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Medical exemption from immunization requirements properly denied

By Kimberly A. Fanniff
Associate Counsel

A school district properly excluded a student who had not been fully immunized, even though her physician submitted documents expressing concern that the shots could be detrimental to the kindergartener's health, according to a decision by the state commissioner of education. The girl's sister had a bad reaction to combined measles mumps rubella ("MMR") vaccine, but the district submitted evidence that this fact was not sufficient to support an exemption from immunization.

State law requires children to be immunized against certain diseases and children may not attend school in the absence of such immunizations. There are two exceptions to immunization. Immunization is not required if a parent holds a sincere religious belief contrary to immunization or if a licensed physician certifies that immunization may be detrimental to a child's health.

In *Appeal of D.F.*, a parent sought to overturn a school district's decision to deny her child a medical exemption from immunization requirements.

When petitioner registered her daughter for kindergarten in the spring of

2009 she supplied a letter from her child's pediatrician stating that R.F. had received the measles vaccine but was medically exempt from the mumps and rubella vaccines for the present time. A second letter was furnished to the school nurse stating R.F. was medically exempt because of concerns that she would have a similar severe reaction as her sister to the MMR vaccine. The district enrolled R.F. but continued to investigate whether an exemption should be granted.

In January 2010 the school district received a letter from the New York State Department of Health (DOH) indicating that a reaction to a vaccine in a sibling does not mean that the individual will have the same reaction and is not a contraindication to immunization. The letter further explained that a medical condition of a sibling or other relative is not a contraindication unless the relative has an immunosuppressive condition which would make it advisable to avoid certain live vaccines.

Based upon this information from DOH, the district sent a letter notifying petitioner her daughter would be excluded from school if she did not receive the required mumps and rubella vaccination. The petitioner then submitted a letter from her pediatrician stating that the

MMR vaccine may be detrimental to R.F.'s health. The district forwarded the letter to DOH for its review and subsequently received notification that DOH believed the letter did not contain adequate documentation to support an exemption. Based on this, the district excluded R.F. from attendance in April 2010. On appeal to the commissioner, the petitioner argued that the certificates furnished by her physician were sufficient and that the law does not require validation of such certificates by the school district or any other party. According to the school district, however, DOH guidance indicates that physician certificates must have sufficient information to identify a contraindication to immunization and also identify a time at which such immunization would no longer be detrimental.

In support of its decision to exclude R.F. from school, the district also relied upon a previous decision by a state supreme court that nonspecific reasons for contraindication to immunization are insufficient to support an exemption. In addition, its actions were similar to those upheld in *Appeal of McGann*, in which the commissioner ruled that a school district was within its rights to demand additional information to ascertain why all immunizations would be detrimental to

the child and to deny the exemption when no additional information was provided.

Ruling in favor of the district, the commissioner determined that given that the letters submitted by the petitioner only stated that R.F. is medically exempt "for the present time" and "because of concerns that she may have similar severe reactions as her sibling did" the district properly engaged in an inquiry to determine if a medical exemption was warranted. It noted that the documentation submitted by the physician failed to identify a time at which the vaccination would no longer be detrimental, as required by DOH. Therefore, the district's actions were not arbitrary or capricious.

The commissioner declined to review additional information petitioner sought to introduce after the proceeding commenced which detailed results of blood tests and explained why those results justify a medical exemption. According to the commissioner, that information was not properly before him. Furthermore, the school district indicated this information presented a new basis for an exemption and it had forwarded such information to DOH and its physician for review.

Suspension upheld for improper remarks, e-mails and texts to student

By Patricia H. Gould
Associate Counsel

A state appellate court has upheld a three-month suspension of a high school teacher who posted her romantic feelings for a 15-year-old student in a blog and repeatedly exchanged late night e-mails with the student that contained inappropriately personal content. The teacher made similar comments both in person and by "texting" him.

The teacher's blog, or online diary, described her "salacious" thoughts about an unnamed person who she thought of kissing and "moving beyond the realm of fantasy" and the conflict she was experiencing for wanting more from the relationship. The student and his friends were able to access her blog, and it was apparent that some of her blog writings were in response to what the student had written on his own blog.

The teacher did not cease contacting the student until he reported her behavior to school administrators, who investigated and later confronted the teacher.

In *City School District of the City of New York v. McGraham*, a section

3020-a hearing officer found that the teacher's blog writings were not misconduct in and of themselves, but they could be considered to show the teacher's state of mind when she made other, contemporaneous contacts with the student, because writing on a public website did not carry any expectation of privacy. The teacher argued that she merely had an "intellectual" attraction to the student and that there was never any physical contact between them. But when the blog entries (e.g.: "I wanted to just let myself go, lean backwards and sink into him.") were considered along with her conversations, texts and e-mails to the student, the hearing officer found that the teacher had communicated her intimate feelings for the student to him, which made him so uncomfortable he stopped going to her class. The hearing officer concluded the teacher was remorseful, sought treatment, and would not do it again, and a 90-day suspension was a significant penalty for this misconduct.

The district appealed, and a state Supreme Court overturned the penalty on the basis that the record did not support the conclusion the teacher would not engage in such misconduct again.

The court said it was significant that the teacher did not seek therapy until she was confronted by investigators, and there was no evidence in the record as to the extent or success of that therapy. As such, the lower court held that a three-month suspension did not address the overwhelming public policy that students must be protected from teachers who cannot exercise the judgment of mature adults.

On further appeal, the Appellate Division, First Department disagreed, and held that such a suspension was not always contrary to public policy. While acknowledging New York's strong public policy in preventing student/teacher relationships that threaten students' well-being, the court said such a public policy is not necessarily violated by allowing an arbitrator to determine the appropriate penalty. Further, the court said, the 3020-a hearing officer here had condemned the teacher's behavior, and his conclusion that the teacher was not likely to repeat her actions was an assessment of the teacher's credibility, and the hearing officer was in a better position to assess that than was the lower court.

In particular, the appellate court

said, the teacher's on-line blog comments were merely "musings which she posted under an alias on a public website without informing the student that she had done so" and at best, the entries confirmed her "romantic" feelings for the student. The court said that it was just speculation that the teacher desired to commence a physical relationship with the student, and there was a rational basis for the hearing officer to conclude that the teacher was not a sexual predator incapable of respecting the boundaries that must exist between educators and their charges.

One justice dissented because McGraham's communications, while not outright vulgar or sexually explicit, did very subtly demonstrate her sexual interest in a minor entrusted to her, and she should not be protected because of her subtlety. According to the dissent, the evidence indicated that the teacher was not sufficiently rehabilitated to be trusted with the education of students and the penalty imposed failed to address the state's public policy interests in protecting students.

Editor's Note: News reports indicate the teacher resigned last year to become a professional poker player.

Across the Nation

NJ education commissioner fired over RTTT

Gov. Chris Christie has fired New Jersey's state education commissioner, Bret Schundler, after Schundler refused to resign in the wake of the controversy over the state's loss of up to \$400 million in federal school funding.

"I was extremely disappointed to learn that the videotape of the Race to the Top presentation was not consistent with the information provided to me," Christie said in a press release announcing the firing.

Two days earlier, Christie publicly said Schundler had tried to give the correct information to a bungled question during the presentation, but video from the U.S. Department of Education the following day proved that did not happen.

The state lost a competitive grant contest for education funding by 3 points. The state lost 4.8 points by seemingly misreading a Race to the Top application question, which asked for information from 2008 and 2009 budgets. The state provided information from 2011.

Source: Newark Star-Ledger (8/27/10)

College Board to end penalty for guessing on AP exams

The College Board is changing the grading policy for the Advanced Placement exams to end the penalty for wrong answers.

So, after decades in which test takers were warned against random guessing, they may now do so without fear of hurting their scores.

The change will be effective for the AP exams given in May 2011.

The shift is notable because the College Board's SAT continues to penalize wrong answers. The ACT, which has gained market share against the SAT in recent years, does not have such a penalty. A College Board spokeswoman said there were no immediate plans to change the scoring system for the SATs.

Robert Schaeffer, public education director of the National Center for Fair and Open Testing, said the guessing penalty is "a major competitive disadvantage for the SAT."

Source: USA Today (8/10/10)

The Big Easy gets fed money for schools lost to Katrina

The Obama administration will give New Orleans \$1.8 billion in a lump-sum reimbursement for schools that were damaged or destroyed in the flooding after Hurricane Katrina. Sen. Mary L. Landrieu, a Louisiana Democrat, has announced.

The settlement will pay for 87 school campuses in the city to replace the 127 that existed before Katrina.

The public education system in New Orleans was in the first stages of a radical overhaul before the storm.

Over three-fifths of the city's students now attend charter schools.

Source: The New York Times (8/25/10)

L.A. Times takes union heat for teacher ratings report

National and local teachers unions have sharply criticized The Los Angeles Times for its Aug. 29 publication of a database of about 6,000 third- through fifth-grade city school teachers ranked by their effectiveness in raising student test scores.

The database is part of a Times series that rated teachers by using a "value-added" analysis based on seven years of standardized test scores obtained from the Los Angeles Unified School District. The value-added method looks at previous student test performance and estimates how much a teacher added to or subtracted from a student's progress.

"It is the height of journalistic irresponsibility to make public these deeply flawed judgments about a teacher's effectiveness," said a statement issued by United Teachers Los Angeles.

Randi Weingarten, president of the American Federation of Teachers, had asked The Times not to publish the database. In an Aug. 29 interview on ABC's "This Week," she criticized the paper for using value-added scores in "isolation."

In a later statement, she said the union is "disturbed that teachers will now be unfairly judged by incomplete data masked as comprehensive evaluations."

Source: The Los Angeles Times (8/30/10)

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CHANCELLOR'S COMMENTARY

'Proficient' must mean on track for college

When I became chancellor in March 2009, I made a commitment to New Yorkers that we would accept nothing less than college readiness for all of our kids.

We quickly identified the need to end debate about whether each year's assessments were harder or easier than the year before. The Regents' goal was to restore confidence in how we measure student performance – including our own. At the time, I cautioned against reading too much into what appeared on its face to be tremendous gains in student achievement on math and English tests in grades 3-8.

While the gains seemed impressive, they were at odds with student performance on national exams and were accompanied by a growing body of research suggesting that success on our state tests was a poor predictor of future achievement. Closer inspection revealed that the gains of previous years appeared to be the result of lowering the bar rather than dramatic increases in the number of students



By Merryl Tisch
Chancellor, Board of Regents

achieving true proficiency.

This summer the Regents took an initial step toward putting this debate to bed by approving scoring changes to the 2010 English language arts and math exams that aim to give a more accurate picture of how our students are performing.

As you know, the scoring data we announced on July 28 resulted in significant decreases in the number of students achieving proficiency. In some schools, the drops were dramatic.

While some expressed disappointment in these scores, as we begin a new school year I hope that school leaders will embrace these new scoring standards for our assessments for what they are: a powerful tool for change.

As school board members, you know better than anyone that "proficiency" on our exams has to mean something real and that we are doing all of our children a disservice when we say that a child is proficient when that child is not.

State tests help teachers and administrators identify areas in which attention is needed. Then we can provide the additional support and attention to help stu-

dents catch up and succeed.

Raw scores have been going up, showing that students have been learning and schools have been doing their job. But the harsh reality is that this does not mean that our youngsters are on track to do college-level work – even the ones who graduate high school and are admitted into college. Forty-four percent of students in New York's two-year colleges take remedial courses, as do 13 percent of students in the state's forty-four year schools, public and private. That's why Education Commissioner David Steiner, with the support of the Regents, adjusted the cut scores that divide students into those who have met standards and those who have not.

It is important to recognize that our changes in scoring standards come as we are moving forward with an array of reforms that will begin to take effect throughout the new school year. Scores on assessments – and, more importantly, college readiness – will improve as we make changes in teacher preparation, teacher evaluation, the state's data system, and especially the curriculums we use (so they are better aligned with what is tested).

In August I traveled to Washington to explain our reform strategy and urge fed-

eral officials to select New York as a winner in the second round of the federal Race to the Top competition.

I pointed to our recent changes in our state assessments as proof positive that we were aiming the bar high and are ready to accept nothing less than college readiness for all of our kids.

I described New York's broad reform agenda:

- Our reforms in teacher evaluation will help us better prepare our teachers by using accurate data to reward and model great teaching and provide intensive development for teachers in need of additional support.
- Our reforms to alternate certification and teacher preparation will provide high needs schools with top teachers and create new competition to drive innovation in the field of teacher training.
- And our new approach to turning around failing schools will bring intensive intervention to our schools with the lowest student performance and graduation rates.

Together these reforms and our more rigorous assessments will finally lead to meaningful improvements in student performance that we can all believe in.

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New York State School Boards Association

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► Interested candidates are encouraged to visit the Copenhagen Central School District website at www.ccsknights.org

Application deadline: Sept. 24, 2010.
Start date: December 2010
Salary: \$105,000 - \$110,000

Interested candidates should submit a letter of interest, current resume, completed application, credential file and copies of New York State teacher and administrator certifications to:

Submit Letter of Application to:
Jack J. Boak, District Superintendent,
Jefferson-Lewis BOCES
20104 State Route 3, Watertown, NY 13601
Phone: (315)779-7010 • Fax: (315)779-7009
E-mail: placlair@boces.com
Applications are available online at
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kate.chauvin@nyssba.org

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SUPERINTENDENT OF SCHOOLS

Salary: \$95,000-\$120,000 depending on qualifications and experience

Start date: Jan. 3, 2011

Interested candidates should submit a letter of interest, completed application form, resume, professional placement file and academic transcripts by **Sept. 17, 2010** to:

Dr. Robert D. Olczak, District Superintendent
Cattaraugus-Allegany BOCES
1825 Windfall Road
Olean NY 14760
Phone: (716) 376-8246
Fax: (716) 376-8452
E-mail: snenno@caboces.org

Interested candidates are encouraged to visit the Scio Central School District website at: www.scio.wnyric.org

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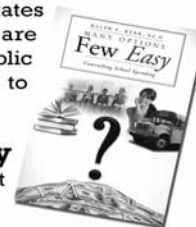
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We are seeking a Chief Executive Officer for our 1,759 student pre-K-12 school district located in the Southern Tier of New York.

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Application deadline: Sept. 24, 2010

Contact:
GST BOCES
Allen Buyck, Interim District Superintendent
9579 Vocational Drive
Painted Post, NY 14870
Telephone: (607) 654-2283

The art of the deal: Savings through regionalized negotiations

By Mike McCagg
Capital Region BOCES

In a time of dire fiscal straits, Capital Region BOCES is offering school districts a regional approach to negotiating and managing contracts. The BOCES' Labor Relations and Negotiations Service, which debuted last year, enables school administrators to hire negotiators with experience negotiating contracts in the Capital Region and beyond.

A regional approach makes sense, said Kevin Harren, director of the service. "We are familiar with contracts around the region and their provisions," he said.

The service puts districts on a level playing field in negotiations with employee unions such as New York State United Teachers (NYSUT) and the Civil Service Employees Association (CSEA), according to Harren. The BOCES's 23 component districts have about 14,500 employees, 95 percent of whom are represented by a bargaining unit.

"NYSUT and CSEA bring to the table a level of organization and knowledge of other contracts in the region, because they negotiated those contracts as well," he said. "We want to sit at the table on behalf of the school district and be able to say, 'This is what we negotiated over here,' or 'That isn't true, you are cherry-picking from this school's contract.'"

The service is primarily provided by Harren, who previously spent three decades as a labor attorney for NYSTU and Robert Zordan, a private-sector human resources executive for 20 years before moving to the public sector several years ago and accepting his current position as the human resources director for Capital Region BOCES.

The combined experience of Zordan and Harren is invaluable, said Lou McIntosh, superintendent of the Brunswick-Brittonkill school district in Rensselaer County. One of three districts currently using the service, Brittonkill has contracted with the BOCES to negotiate a contract with its teachers union.

"My experiences with Robert and Kevin have been great," said McIntosh. "We have been very pleased. They are very knowledgeable. They answer questions quickly and it's nice to have this type of resource available to us."

Using a regional team of management negotiators is popular in other parts of New York State, noted Mark Jones, Capital Region BOCES assistant district superintendent for management services.

"This is something that has become the accepted manner of doing business in Central and Western New York and, because of that, we have been able to observe and learn from those well-established BOCES services," Jones said. "We are now bringing the best ideas and practices of those services to this part of the state."

Achieving savings

Besides the savings that can be realized through economy of scale, the Labor Relations and Negotiations



Kevin Harren



Mark Jones

Welcome to our new Innovation page

In cooperation with the state's 37 BOCES, we have created this new Innovation page in *On Board* to highlight innovative work by BOCES and component districts.

We are creating this page as part of a new phase of NYSSBA's Be the Change for Kids initiative, which was launched in January 2010. The campaign addresses the fact that the current method of funding public education is unsustainable and calls on both state and local leaders to be part of the solution by altering the expense structure.

On the Innovation page, we will be highlighting academic and operational initiatives that fit at least one of the following criteria:

- Optimize resources (save money or involve new, more economical ways of doing business).
- Embrace innovative methodologies for delivering educational programs and services.
- Involve consolidation of school district functions on a regional basis.
- Involve shared services or expansion of group purchasing practices.
- Represent breakthroughs in labor relations.

In accordance with a goal of NYSSBA's Board of Directors, this space will also highlight examples of innovation in the classroom, especially programs that address 21st Century Skills.

For more information on NYSSBA's Be the Change for Kids campaign, see www.bethechangeforkids.org.

— Eric D. Randall, Editor-in-Chief

In addition to labor negotiations, the service also assists district administrators with day-to-day human resource issues such as contract administration, grievance handling, data collection and several other issues.

"Much of the human resource function in any school district involves education law, as well as the civil service law," said Harren. "Neither of those laws is easily learned. Our goal is to be at the other end of the telephone to answer questions expeditiously and professionally."

Benefit management service

Once their new contracts have been negotiated by Capital Region BOCES negotiators, school districts can turn to another BOCES service to save even more money in the area of benefits administration. The Employee Benefit Management and Coordination Service overseen by Jones allows schools to rely on a team of BOCES employees to handle some of the benefits administration functions of their districts. By providing this service in a cooperative model, schools are able to save significant personnel costs while at the same time increasing their state aid reimbursements through BOCES aid.

Through the service, districts hire the BOCES to work and negotiate with insurance carriers, handle employee coverage issues, serve as a common remitter for payment of premiums between participating subsidiaries and the insurance carrier and provide educational seminars for employees on various insurance matters.

Also, the BOCES formed a non-profit brokerage company to reap savings for school districts by regionalizing health insurance and prescription insurance offerings. The goal of the New York State Municipal Benefit Coalition, Inc. brokerage is to coordinate strategic decision-making strategies for districts, provide regional wellness programs and research and develop benefit initiatives

that will not only help contain the ballooning costs of health insurance, but enhance the effectiveness of the programs to districts who take part.

"We are leveraging the districts' health insurance initiatives ... and we are also doing a regional bid for prescription coverage," Jones said.

The BOCES is providing schools with other options to regionalize and save by recruiting new

employees, providing fingerprinting of new hires and coordinating substitute coverage when those employees fall sick.

"It's incumbent upon us to do all we can to provide services for less and seek out savings for districts," said BOCES District Superintendent Charles Dedrick. "This is what we have to be about."



Service also saves school taxpayer dollars through state incentives for shared services provided through a Cooperative Service Agreement (CoSer).

"Our service is tremendously economical," Jones said. "Our contractual business model allows for a lower cost than the traditional providers of these services and, on top of that, the fee paid to Capital Region through the CoSer is eligible for the state BOCES aid."

Nassau BOCES RFP yields price cut for districts

School districts in Nassau County are paying a lower fee per participant in their tax-sheltered annuity programs, thanks to a group bidding process managed by the Nassau BOCES Department of Business Services.


The BOCES sought bids on behalf of all 56 school districts in Nassau County. These districts had been paying fees of \$33-\$40 per participant for their 403(b) tax sheltered annuity plans and had expected the rates to increase. The best of four bids carried a rate of \$31 per participant, representing a 19 percent savings, on aver-

age. Participating districts will see a reduction in expenses of between \$600 and \$5,000 per year.

"We are looking under every rock for savings for our districts," said Joan Siegel, associate superintendent. "In this financial environment, we know every little bit helps."

According to Siegel, her e-mail inbox filled up with messages of thanks. "We had been charged \$36 per participant, and that was going up to \$40," said one school official. "This is very good news indeed," said another.

— Angela Marshall, Nassau BOCES



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