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November 15, 2015

The Honorable Merryl H. Tisch, Chancellor  
New York State Board of Regents  
New York State Education Department  
89 Washington Avenue  
Albany, New York 12234

Dear Chancellor Tisch:

At the Council of School Supervisors and Administrators (CSA) 48<sup>th</sup> Educational Leadership Conference, held in New York City on November 14, many keynote speakers – including Senator Charles Schumer – spoke of the need to stop abusing educators. I was glad to see you, Commissioner Elia and several members of the Board of Regents at this same conference. As uplifted as my colleagues and I were at the conference, we were in equal measure chagrined by the contents of the Board of Regents item to be discussed on November 17 at the Higher Education Committee. The item is titled: “Proposed Amendment of Part 83 of the Regulations of the Commissioner of Education Relating to Good Moral Character Proceedings on Charges Against a Certified Educator.” Although we note that this is a discussion item, we are taking this opportunity to bring to your attention our strong opposition to its contents and we encourage all Regents members to do likewise.

The new annual professional performance review (APPR) provisions included in Section 3012-d do not constitute an improvement over the provisions contained in Section 3012-c; and the new provisions governing Section 3020-a and 3020-b do not improve due process or better ensure fair and just outcomes. These statutes were designed to result in more teachers and principals receiving Developing or Ineffective APPR evaluations; along with the unfettered ability to remove non-tenured personnel and procedures to more ensure and expedite the removal of educators. There is nothing in these laws that requires parallel construction and “streamlining” of the Part 83 regulations. Teachers and school administrators should have the same due process rights as other licensed professions.

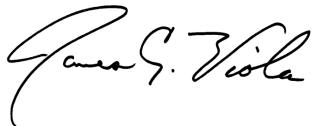
The contemplated revisions of Part 83 constitute a dilution of the due process safeguards upon which each individual’s career may depend.

- Now, the individual may request that the hearing be conducted by a hearing officer or by a three-member hearing panel.
  - Under the contemplated Part 83 there is no choice – the commissioner will appoint a hearing officer.

- Now, for the three-member hearing panel, the certified individual or applicant selects one member and is involved in mutually selecting a second member. The listing of possible panel members is based on Education Law Section 3020-a – which includes only American Arbitration Association labor arbitrators who meet stringent ethics requirements and qualification requirements (attached).
  - Under the contemplated Part 83, the commissioner will set minimum qualifications for hearing officers. Though some criteria are set in regard to the minimum requirements: an attorney who has experience as a hearing officer in §3020-a or §3020-b proceedings, or served as a judge or justice, or has experience conducting administrative hearings or in application of Education Law. These qualifications are not as stringent as those set for AAA arbitrators, and it is possible that a hearing officer appointed under this system may never have never conducted a hearing

Teachers and school administrators are under enormous pressure – continue to phase-in common core standards and pedagogy, meet the needs of diverse student learners, negotiate and implement changing APPR systems, plan and prepare for computer-based assessment, and more. The morale of teachers and school administrators has never been lower. For the past six years, no statutes or regulations have been enacted to protect educators careers, rights and protections; but many have been enacted that may reduce or end their careers, rights and protections. There is no good reason for implementing the revisions contemplated in this Board of Regents item. Again, we hope that you and your fellow Regents members will do the right thing, and not enact these revisions.

Sincerely,



James C. Viola  
Director of Government Relations

Cc: Commissioner MaryEllen Elia  
Members of the State Board of Regents

Attachment