



## **Education Law Center**

*Standing Up for Public School Children*

**Via Facsimile, Electronic, and Regular Mail**

June 3, 2011

Dr. Robert Higgins, Director  
Office of Licensure & Credentials  
New Jersey Department of Education  
River View Executive Plaza  
Building 100, P.O. Box 500  
Trenton, NJ 08625-0500

Re: Requirements for Administrative Certification  
School Administrator  
PRN 2011-092

Dear Dr. Higgins:

Education Law Center ("ELC") works to secure the legal rights of New Jersey's 1.3 million public school children to high quality education under state and federal laws, particularly our state's at-risk students, students with disabilities, and students of color. As an advocate for students in New Jersey's need school districts, ELC serves as counsel to the class of urban school children in the landmark Abbott v. Burke education equity case, and provides legal services to students in special education, student discipline, school residency and other matters. As one of the nation's premier advocates for education rights, ELC has substantial expertise in this area.

ELC strongly opposes the proposal of the State Board and Acting Commissioner for the elimination of certain minimum requirements for school administrator certification for superintendents of New Jersey's three State-operated school districts and another 51 districts designated by the State as in need of improvement under the federal No Child Left Behind Act ("NCLB").

This proposal, if adopted, would create a two-tiered system of supervision of New Jersey's public schools by allowing persons with no educational experience to manage a subset of schools that serve students most in need of highly qualified instructional leadership. Lacking any research or other evidentiary support, the proposal is clearly arbitrary and capricious; would undermine State policy objectives and efforts

to improve education quality and outcomes for substantial number of New Jersey's at-risk (low income) students; and would have a disparate impact on public school districts with substantial enrollments of Black and Latino students. For the reasons set forth below, this proposal must be flatly rejected.

First, the proposed changes, without any evidentiary or other support, substantially deviate from the "standards-based, rigorous system of licensure, designed to support improved student achievement of the Core Curriculum Content Standards" established by the current rules. N.J.A.C. 6A:9-1.2(b). Under the present rules, superintendents must possess certain minimum qualifications, including attainment of a master's degree in school leadership or management; completion of a 150 hour internship in educational leadership; passage of a State-approved examination aligned with Professional Standards for School Leaders; and completion of at least five years successful educational experience in a public or private school. N.J.A.C. 6A:9-12.4(a).

The proposal would eliminate these core requirements for instructional supervision and leadership, allowing instead any person to qualify as school superintendent who possess only a bachelor's degree in any field of study and "sufficient management and executive leadership experience in a public or private organization as determined by the Commissioner." Proposed N.J.A.C. 6A:9-12.4(m). Put simply, persons with no experience in education, let alone instructional and curricular supervision and leadership, could be qualified to serve as school superintendent. Further, this "no education experience necessary" proposal would apply only to the three State-operated districts and 51 other districts designated by the Department of Education as "in need of improvement" under the NCLB.

On its face, the proposal, without any research, data, evidence or other support, would consign students in those school districts with the greatest academic challenges to supervision by persons with no education experience. Indeed, the Commissioner provides no justification for what is clearly a wholesale and radical change to New Jersey's past and current requirements for school supervision, administration and leadership - namely, a demonstration through solid experience, training and assessment of the ability to provide the solid skills necessary to lead and improve public schools serving our state's most vulnerable, disadvantaged and neediest students.

In fact, no such research, evidence or justification exists to support the basic assumption behind the proposal that having district leadership with no background in education and, most importantly, no experience in curriculum, instruction, teacher evaluations, professional development or other critical areas will somehow result in substantial improvement in academic performance. To the contrary, recent experience in the New York City public schools, where a publishing executive was compelled to resign after just three months as Schools Chancellor, is persuasive evidence that non-educators do not possess the necessary qualifications to be a New Jersey chief school administrator, especially in our most educationally challenging environments. As James Harvey, the Executive Director of the National Superintendents Roundtable, recently noted:

"The nation has 20 years' experience with non-traditional school leaders. Placed in districts from Seattle to New York and Washington, they have included successful generals, lawyers, nonprofit leaders and business executives. Not one of them has provided unambiguous evidence they were better able to improve urban schools than their traditional counterparts."

Who is Qualified to Run New York City Schools?, New York Times, April 7, 2011, last visited at: <http://www.nytimes.com/roomfordebate/2010/11/10/whos-qualified-to-run-new-york-city-schools/why-superintendents-stumble>

Indeed, it is inconceivable that anyone without direct experience in medicine, law, architecture, or business would be considered qualified to assume a leadership role in any of those professions; to permit such a result in the field of education explicitly conflicts with the State's expressed goal of establishing a "licensure system based on professional standards" that "continuously serves to improve the quality of instruction for New Jersey's children." N.J.A.C. 6A:9-1.2(a).

Second, the proposed changes are contrary to New Jersey's constitutional imperative and strong policy - embedded in statutes, regulations, and case law - requiring the improved academic performance of at-risk pupils in high need districts. As did the rulings of the New Jersey Supreme Court in the landmark Abbott v. Burke case, the State's School Funding Reform Act ("SFRA"), N.J.S.A. 18A:7F-43 - 63, recognizes the "unique problems and cost disadvantages faced by districts with high concentrations of at-risk students." N.J.S.A. 18A:7F-44(j). To address these unique problems and greater academic needs arising

from poverty, the State has not only mandated increased resources, but has also implemented supplemental instructional requirements in the areas of class size, full day kindergarten, and language arts and mathematics literacy that apply to the underperforming, high poverty school districts, classified as "high need." See N.J.A.C. 6A:13-3.1 - 3.5. (The high need districts include all three of the State-operated districts and most, if not all, of the 51 districts in need of improvement.)

These evidence-based instructional reforms must be overseen and further developed and revised for optimal effectiveness by superintendents who can provide the necessary instructional leadership to their districts. See Abbott v. Burke, 149 N.J. 145, 168 (1997) ("Real improvement still depends on the sufficiency of educational resources, successful teaching, effective supervision, efficient administration, and a variety of other academic, environmental, and societal factors needed to assure a sound education"); Abbott v. Burke, 196 N.J. 544, 549 (2008) (noting success in obtaining "constitutionally sound, mandated educational program that is supported by a consistent level of State funding" has enabled "children in Abbott districts to show measurable educational improvement"). The proposal to lower superintendent certification requirements in underperforming districts, which would allow for superintendents without any educational experience at all, is contrary to the State's longstanding mandates and policies to improve teaching and learning for New Jersey's at-risk students.

Finally, the proposal raises a substantial issue regarding New Jersey's Law Against Discrimination, N.J.S.A. 10:5-1 - 42, which prohibits administrative policies and practices that have an unjustified "disparate impact" on racial minorities. The "no education experience necessary" proposal applies only to a subset of New Jersey school districts that serve significant numbers of the state's Black and Latino students. Indeed, enrollment data shows that almost 70% of all students in the 54 districts targeted by the proposal are Black and Latino. By contrast, in all of the other districts -- primarily Caucasian and not designed as in need of educational improvement, superintendents must continue to meet the stringent educational training and experience qualifications contained in the current rules.

While the State may seek to increase the pool of qualified chief school administrators in underperforming school districts, it cannot seek to do so by imposing a rule that disparately impacts minority students without demonstrating the necessity of the

rule for achieving the overarching objective of providing high quality curricular and instructional leadership in those districts. If educational training and experience is relevant to qualify for leadership in the State's higher performing school districts, then, absent some evidentiary showing to the contrary, similar requirements must be applied to districts educating the greatest numbers of our black and Latino students. The nation's leading civil rights organizations recently warned against "advancing experimental proposals" that "promote ineffective approaches for turning around low performing schools," noting that "[f]or far too long, communities of color have been testing grounds for unproven methods of educational change while all levels of government have resisted the tough decisions required to expand access to effective educational methods." Lawyers Committee on Civil Rights, et al., Framework for Providing All Students an Opportunity to Learn through Reauthorization of the Elementary and Secondary Education Act, July 2010, at pages 2 and 5 (copy attached).

For these reasons, ELC strongly urges the State Board and Acting Commissioner to reject the pending proposal and to maintain appropriate superintendent certification for all New Jersey school districts.

Sincerely,



Elizabeth Athos



David G. Sciarra

Encls.