

January 11, 2010

Honorable David A. Paterson  
Governor of New York  
Executive Chamber  
Albany, NY 12224

Dear Governor Paterson:

On behalf of the more than 14,000 Principals, Assistant Principals, Supervisors and Administrators who are members of the New York State Federation of School Administrators (NYSFSA) in Yonkers, Buffalo and New York City, I am writing to you regarding Program Bill No. 214. This measure is intended to bolster New York's application for Race to the Top (RTTT) funding.

Program Bill No. 214 would eliminate the charter school cap; allow the Dormitory Authority to finance charter school capital funding for approved charter schools; allow the Regents to appoint a temporary receiver to address chronically under-performing schools; and repeal the current prohibition of the use of performance data for teacher tenure determinations.

While the proposed bill seeks to make New York more competitive for RTTT, NYSFSA is very concerned that it does not significantly advance the cause of education reform in New York. NYSFSA understands that the magnitude of the current fiscal crisis necessitates adopting educational reforms to qualify for increased federal funding. However, without simultaneously addressing the challenges inherent in existing charter schools, we believe it would be irresponsible to support any education reforms which would hastily and rapidly expand the number of charter schools in New York. In particular, NYSFSA believes strongly that the issues of transparency and accountability, as well as the charter school approval process, must be discussed at the same time that we contemplate any change to the cap.

### **Accountability and Transparency**

NYSFSA believes strongly that charter schools should be more carefully evaluated and be held accountable to a greater extent than they have been in the past. To that end, as part of any discussion related to altering the current cap on charters, we must also address issues with the charter enrollment process and the public disclosure of state funding expenditures for charter schools.

#### *Enrollment Process*

NYSFSA believes that the student enrollment process used by charter schools needs to be closely scrutinized and made readily understandable. NYSFSA feels that many charter schools have not made a good faith effort to enroll significant numbers of English Language Learners or Special Education students. To address this issue, NYSFSA recommends that Section 2854 of the Education Law be amended to require charter schools to make their enrollment policies and procedures available for public scrutiny.

Presently, under section 2854 of the Education Law, charter schools are required to demonstrate good faith efforts to attract and retain a comparable or greater enrollment of students with disabilities and Limited English Proficient students, when compared to the enrollment figures for such students in the school district in which the charter school is located.

Although charter schools are not allowed to discriminate against students in their selection and acceptance processes, they can “encourage” parents to withdraw their child and instead attend a traditional public school. We have heard reports of charter schools that intentionally advised parents of English as a Second Language or Special Education students that the local zoned school would have better resources for their child. In this way, charters are able to remove students who may not perform as well on certain kinds of standardized tests.

Ultimately, the enrollment process must ensure that each charter school has a diverse student body, reflective of the community in which it is located, and also has students with disabilities or who are English Language Learners. Students with disabilities or special needs should not be foreclosed from the opportunity to attend a charter school.

### *Public Reporting*

In order to increase transparency of charter school funding, NYSFSA urges the enactment of legislation that would require charter schools to publicly report all sources of funding. The New York State Department of Education (NYSED) has a legitimate role in monitoring the financial stewardship of charter schools to ensure the responsible expenditure of public funds. As recipients of public funding, charter schools should be required to make copies of their budgets available to NYSED and the public. In the spirit of transparency, the public has a right to access such information and see how their taxpayer dollars are being used.

On a related matter, Article 56 of the Education Law currently requires charter schools to obtain an independent financial audit at least once annually. NYSFSA also recommends amending section 2854 of the Education Law to require charter schools to make this independent financial audit publicly available.

### **Consolidation of Charter School Approval within the Board of Regents**

As part of the deliberations on eliminating the charter school cap, it is also crucial that the issue of the approval and oversight of new charter schools be discussed. If the number of charter schools in New York is allowed to grow exponentially, then we must have one approval process, one overseer and, most important, one set of standards. Currently, NYSFSA believes that there are unnecessary and needlessly redundant roles for the two state authorizing boards for charter schools. NYSFSA recommends the amendment of Article 56 of the Education Law to recognize the Board of Regents as the sole authorizer to ensure that all charter schools are held to the same standards for approval and continuation of operation.

Under existing law, both the Board of Trustees of the State University of New York (SUNY) and New York State Board of Regents are authorized to approve and review charters in New York State. Since current law authorizes both to consider and approve charter schools, New York has two different applications, processes, and standards for those seeking to establish a charter school. In order to ensure that these schools are truly serving the interests of the students, there should be a single set of rules and standards with one oversight entity.

### **Conclusion**

NYSFSA understands that time is of the essence in securing passage of legislation aimed at supporting New York's ability to competitively compete for RTTT. However, NYSFSA respectfully requests that a forum be established as soon as possible to discuss charter school reform and develop legislation to address the issues identified above.

In this time of economical difficulty, we must ensure that every dollar of public money spent on charter schools and traditional public schools is truly working to improve the education of our children. The concept of fairness is essential in public education, and must be at the center of the discussion of charter schools and their possible expansion.

The opportunity to consider measures to truly advance the effort toward real reform should not end with the submission of New York's application, but rather begin a conversation to advance critical changes that will benefit students in classrooms across the State.

Sincerely,

A handwritten signature in black ink that reads "Peter J. McNally".

Peter J. McNally  
President