



New York State  
School Boards  
Association

# 2012

► **Proposed  
Resolutions**  
and  
**Voting Delegates  
Guide**  
for the  
**2012 Annual  
Business Meeting**



*October 27, 2012*

## NYSSBA

► 93rd Annual Convention & Education Expo  
ROCHESTER • 2012

OCTOBER 25-27, 2012

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## **ANNUAL BUSINESS MEETING**

SATURDAY, OCTOBER 27, 1:00 P.M., CONVENTION CENTER, LILAC BALLROOM

## **DELEGATE ORIENTATION / ASK THE PARLIAMENTARIAN**

SATURDAY, OCTOBER 27, 8:30 – 9:45 A.M., CONVENTION CENTER, HIGHLAND E

Join Jay Worona, NYSSBA's general counsel and parliamentarian for the Annual Business Meeting, and Resolutions Committee Chair Roseanne Sullivan, for an orientation to acquaint voting delegates with the business meeting process and answer any questions regarding conduct of the meeting.

TO: School Board Members and Chief School Administrators

FROM: Roseanne Sullivan, Resolutions Committee Chair

DATE: August 2012

This is your report of the recommendations of the Resolutions Committee on proposed resolutions, which will be acted upon by the delegates at the New York State School Boards Association's Annual Business Meeting on **Saturday, October 27, 2012 at 1 p.m. at the Rochester Riverside Convention Center.**

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**Voting delegates should bring this report and the *Amendments and Rebuttals* brochure, each electronically sent to districts in mid-August and September respectively, to the Annual Business Meeting. These will be the working documents used at the meeting.**

Note that each resolution has a box in which your delegate can record the position taken by your board on the resolutions, as well as that taken by the delegates at the meeting.

In an effort to allow delegates to the Annual Business Meeting sufficient time to fully debate all new resolutions, a consent agenda for existing NYSSBA positions is being offered at this year's meeting. These resolutions were previously approved by voting delegates and have been a part of NYSSBA's advocacy agenda for the past five years. If they are not renewed, they will expire. These resolutions will be offered to the delegates on consent, allowing for these several resolutions to be considered in a single vote. If any delegate wishes to remove a resolution from the consent agenda, they need only request it at the time the resolution is called. It will then be considered under the "Resolutions Recommended for Adoption" portion of the meeting.

# **PROPOSED ORDER OF BUSINESS**

## **ORDER OF BUSINESS**

- President's Welcome and Comments
- Announcement of a Quorum
- Adoption of Order of Business
- Adoption of Rules of Conduct for the Business Meeting

## **THE BUSINESS MEETING**

- Announcement of Election Results – Areas 2, 4, 6, 8,10 and 12
- Introduction of Officers and Directors

## **ELECTION OF OFFICERS**

- President
- 1<sup>st</sup> Vice President
- 2<sup>nd</sup> Vice President
- Treasurer

## **PRESENTATIONS**

- Report of the Executive Director
- Report of the Treasurer

## **ADOPTION OF RESOLUTIONS**

- Report of the Resolutions Committee
- Consideration of Expiring NYSSBA Positions Recommended for Adoption on Consent
- Consideration of Proposed Resolutions Recommended for Adoption

## **OTHER BUSINESS**

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# EXPIRING NYSSBA POSITIONS RECOMMENDED FOR ADOPTION ON CONSENT (2007 SUNSETTING RESOLUTIONS)

## 1. FUNDING OF MANDATORY STATE TESTS

Submitted by the NYSSBA Board of Directors on June 9, 2012.

Originally submitted by the Pine Bush Board on June 15, 2007  
and adopted at the NYSSBA Business Meeting in October 2007.

LOCAL	NYSSBA

- 1 **RESOLVED**, that the New York State School Boards Association seek to
- 2 require the State of New York to fully fund the writing and scoring of all
- 3 mandatory state tests for grades 3-8.

## RATIONALE

It is the role of local communities to support public education. Our democratic form of government relies on that support for its continuation. Taxpayers in New York State are overburdened by state and local taxes. Because school districts are the only municipalities required to have community approval of their budgets, there develops an animosity over the costs of educating students and therefore, a reluctance to support public education. With more and more unfunded initiatives being required of schools, local taxpayers are being asked to cover costs that outpace inflation and local incomes. This resolution is asking New York State to reimburse school districts for the costs to score mandated state tests. This would be a small effort by the state to share some of the growing costs that are passed on to school districts through unfunded mandates. If society doesn't feel positively about its role in educating our youth, our democracy will be in peril. When the State Education Department failed in its attempts to have the legislature fully fund this program, it rationalized that public education is a shared state and local responsibility. However, simply put, these are state mandated tests and the state should pay for them. This cost is currently borne by the individual school districts and, therefore, the local taxpayer. New York State should reimburse the school districts for this cost and should the state deem it necessary to pass this cost back to the federal government, NYSSBA should commit to lobbying for this cost and service.

## A STATEMENT IN SUPPORT OF THE RESOLUTION FROM THE RESOLUTIONS COMMITTEE

The Resolutions Committee believes that support for the resolution is thoroughly expressed in the rationale.

## 2. PRINCIPLES OF TEACHER DISCIPLINE REFORM

Submitted by the Nassau BOCES on July 6, 2012.

Originally submitted by the Nassau BOCES on June 14, 2007

and adopted at the NYSSBA Business Meeting in October 2007.

LOCAL	NYSSBA

**RESOLVED**, that the governor and state Legislature should reform the system of teacher discipline in a manner that:

1. Establishes a state hearing panel to hear and decide 3020-a cases
2. Authorizes school districts to terminate a tenured teacher without a 3020-a hearing if
  - a) they have been convicted of child abuse in an educational setting, or
  - b) their teaching certificate has been revoked by the State Education Department, or
  - c) they have failed to obtain permanent certification in the requisite time period
3. Clarifies that teachers must cooperate in the school district investigation of 3020-a charges against them
4. Eliminates paid suspension for teachers awaiting 3020-a proceedings, or caps the length of time they are paid
5. Requires teachers facing 3020-a hearings to disclose the nature of their defense prior to the hearing

## RATIONALE

Teacher quality is the most critical factor in improving student achievement. New York school districts have worked to attract the highest caliber teachers possible, offering salaries and fringe benefits that are among the best in the nation. But we hurt children – as well as damage the morale and stature of our many fine teachers – when unfit teachers remain on the payroll.

In 1994 the teacher disciplinary system in New York State was “reformed” to address the need for a more cost-efficient and timely process. Some 18 years later, the present system, commonly referred to as the 3020-a, process is more costly and time-consuming than before the 1994 “reforms.” To address the issue, NYSSBA surveyed members and maintains a database of information regarding the cost and length of time needed to bring a 3020-a case to its conclusion. NYSSBA also convened a task force of 3020-a attorneys to recommend needed changes to the system. The resulting recommendations were included in “Accountability for All,” a report issued to the Regents, state Legislature and the governor. As in 1994, all of the recommendations proposed are intended to “balance due process protection for tenured teachers against the need for school districts to have an expedient and cost effective mechanism for maintaining disciplinary standards” (Governor’s Approval Memo, Chapter 691 of the Laws of 1994).



Nothing is as important to increasing student achievement as good teaching. The five reforms to the process are aimed at reducing children's exposure to individuals whose behavior makes them unsuitable for teaching or who simply are incompetent teachers. These reforms still protect the rights of the accused but expedite the process for reaching a just resolution. According to NYSSBA surveys in 1997, 2005 and 2008, the average case outside of New York City now takes over 500 days from the time charges are levied to the time a hearing officer renders a decision, up from 319 days in 1997. The cost has also soared, from \$94,527 to \$216,558. The cost and the time discourage school districts from initiating formal proceedings except in the most urgent cases.

Most teachers do their job well, but every child deserves good instruction. Governor Cuomo has properly called for accountability for all those involved in education. This must include those who actually deliver education services. There is no accountability where there are no consequences.

The following is an explanation of each of the recommendations within the Principles of Teacher Discipline Reform:

**1) *Establish a state panel to hear and decide section 3020-a cases.***

Currently, section 3020-a hearings are generally conducted by a single hearing officer mutually selected by the teacher facing disciplinary charges and the employing district. A state panel would expedite assignment of hearing officers. These state officials would not be beholden to any interest other than resolution of 3020-a disciplinary charges. The proposed solution would also likely improve the consistency of decisions.

**2) *Authorize the dismissal of tenured personnel without a section 3020-a proceeding in certain limited circumstances.***

Currently, school districts must conduct costly section 3020-a proceedings even to terminate teachers who have been criminally convicted of child abuse in an educational setting, have had their certification revoked, or have failed to obtain permanent certification within requisite statutory time frames. Since school districts should not employ such individuals in a school setting, their dismissal should not require an elaborate separate proceeding.

**3) *Clarify that teachers must cooperate in investigations of possible 3020-a charges against them.***

Currently a teacher cannot be compelled to testify at his or her 3020-a hearing. Some courts have interpreted this to mean a teacher need not even cooperate with a school district's investigation into the alleged misconduct. This hinders districts in investigating whether it is even appropriate to initiate a disciplinary proceeding. No other civil servants enjoy such rights. The proposed



change would facilitate a prompt determination as to whether probable cause exists to bring charges as well as early identification and resolution of issues.

- 4) ***Eliminate paid suspensions for all teachers while 3020-a proceedings are pending, or cap the length of time that they must be paid.*** Most 3020-a decisions have found the accused guilty. Nevertheless, with very limited exceptions, most accused teachers continue to collect full pay and benefits and have little incentive to expedite a resolution.
- 5) ***Require that teachers facing section 3020-a disciplinary action disclose the nature of their defense prior to the hearing.*** Currently, only school districts must disclose the nature of the case and evidence against the teacher. Requiring the same of the accused would expedite identification and possible resolution of the issues at the pre-hearing stage. Without such “reciprocal discovery,” attorneys for the school district must typically seek hearing adjournments to prepare their response. Reciprocal discovery would also foster legitimate mediation opportunities that do not exist under the present system.

#### **A STATEMENT IN SUPPORT OF THE RESOLUTION FROM THE RESOLUTIONS COMMITTEE**

In 2007 NYSSBA published a report entitled “Accountability for All – 5 Ways to Reform the Teacher Discipline Process.” The report emanated from suggestions offered by school attorneys regularly involved in the representation of school districts in teacher disciplinary proceedings and a survey conducted by NYSSBA of member districts, to compile statistical information on the cost and duration of such proceedings. Further, NYSSBA now maintains a database to provide members and others with current and accurate information regarding these cases. “Accountability for All” was provided to all legislators, the governor’s office, the State Education Department and interested parties within the educational community. Many of the recommendations of this report have formed the basis of recently enacted legislation. As a result, NYSSBA has made progress on an issue that has proved both costly and burdensome to school districts for more than a decade.

In 2008, Section 3020-a was revised to provide for the automatic termination without a 3020-a hearing for tenured employees convicted of certain specified sex offenses, and tenured administrators convicted of criminally defrauding a school district.

In 2010, as part of substantial revisions to the teacher and principal evaluation process, Section 3020-a was revised to provide for expedited disciplinary hearings, but only for those teachers/principals who receive two

consecutive annual ratings as “ineffective” under the new annual professional performance review (APPR) system. While laudable, this expedited process only applies in limited circumstances.

In 2012, Section 3020-a was further revised with several measures meant to further expedite the process. There is a new provision that if the board and the charged employee fail to agree on a hearing officer within fifteen days, the commissioner will now appoint a hearing officer. In addition, SED is now authorized to monitor and investigate a hearing officer’s compliance with the timelines already set in the statute. The commissioner may exclude any hearing officer with a record of “continued failure to commence and complete hearings within the time periods” from being on the list of potential hearing officers.

The 1994 amendments to 3020-a set time limits for the pre-hearing conference (within 15 days of hearing officer’s appointment) the last hearing day (no more than 60 days after the pre-hearing conference), and the hearing officer’s decision (within 30 days of the last hearing day). However, those timelines have not historically been followed. The 2012 amendments now add the additional requirement that all evidence must be submitted by both parties within 125 days of the filing of the charges, unless there are extraordinary circumstances beyond the control of the parties.

While certainly these are steps in the right direction, the revisions outlined above still do not go as far as the reforms called for by NYSSBA.

### 3. MODIFIED TESTING REQUIREMENTS FOR STUDENTS WITH DISABILITIES

Submitted by the NYSSBA Board of Directors on June 9, 2012. Originally submitted by the Wappingers School Board on May 29, 2007 and adopted at the NYSSBA Business Meeting in October 2007.

LOCAL	NYSSBA

- 1 **RESOLVED**, that until such time as the federal No Child Left Behind Act is
- 2 reauthorized with modified testing requirements for students with disabilities,
- 3 the New York State School Boards Association shall advocate for the federal
- 4 restoration of the New York State Education Department’s past practice of
- 5 providing testing modifications for such students with disabilities whose
- 6 individualized education program’s (IEP) details are not congruent with the
- 7 materials being tested.

### RATIONALE

Current requirements under the federal NCLB law exempt only a minimal number of classified students – those with severe disabilities. All other disabled students are required to take the same set of standardized tests as those students not so classified. This is true regardless of whether such examinations align with their individual courses of study, and/or their capacity for success with the grade-level testing. Beyond those who are severely

disabled, there are a substantial number of students whose disabilities will severely limit their success on these tests.

The NCLB requirement that these students receive no accommodations on these state examinations is particularly egregious, tantamount to institutionalized academic child abuse. At the high school level in particular, students are being asked to sit for examinations in math and English which bear little or no resemblance to what they have been taught over the course of their high school study.

Other than the superficial impression of equity in testing, what conceivable point is there to requiring these students to sit for exams which clearly bear little or no resemblance to their instructional experience and that clearly substantiate the premise that these students' experiences provide nothing of statistical or instructional benefit to the students themselves, to the individual school district, or to the state and federal education departments.

We believe it is incumbent upon NYSSBA to advocate for a return to New York State's past testing accommodations for these students until such time as there may be appropriate amendments made to the federal testing requirements within the context of a reauthorization of the NCLB Act.

#### **A STATEMENT IN SUPPORT OF THE RESOLUTION FROM THE RESOLUTIONS COMMITTEE**

NYSSBA has long advocated for assessment options that more appropriately measure the range of instructional levels and abilities of students with disabilities. NYSSBA joined with the National School Boards Association in supporting H.R. 648, the No Child Left Behind Improvement Act. This bill would permit states and school districts to count up to 3 percent of the scores of students with disabilities who take alternative tests, including the use of gain scores or out-of-level testing. In doing so, the IEP team would determine, with the parent's consent, whether the student should take alternative assessments based on the evaluation of such student and the services provided under the Individuals with Disabilities Education Act (IDEA).

At the onset of the legislative reauthorization process for NCLB, NYSSBA convened a diverse group of school leaders from across the state to help inform thinking with regard to the upcoming reauthorization of the No Child Left Behind Act. The Association submitted a list of top legislative priorities for improving NCLB to Congress. With regard to testing requirements for students with disabilities, our recommendations include:

- Allowing children with disabilities to be assessed based on their cognitive ability and readiness, as determined by a school district's multi-disciplinary team in accordance with IDEA regulations.

- Providing that the progress of students with disabilities taking an alternate assessment based on their developmental level should be measured against their individualized education program (IEP).

#### 4. REPEAL SALARY INCREMENTS UNDER TRIBOROUGH

Submitted by the NYSSBA Board of Directors on June 9, 2012.  
Originally submitted by the Bayport-Blue Point School Board on March 27, 2007 and adopted at the NYSSBA Business Meeting in October 2007

LOCAL	NYSSBA

- 1 **RESOLVED**, that the New York State School Boards Association seek
- 2 legislation to repeal the obligation as set forth in that part of the Taylor Law's
- 3 Triborough Amendment which requires school districts to pay increments on
- 4 salary schedules to members of employee organizations which are party to
- 5 labor contracts after expiration of said agreements.

#### RATIONALE

The continuation of so-called automatic salary increments during contract negotiations creates an uneven playing field for the purposes of collective bargaining by providing regular salary increases to employees despite the absence of agreement on wages and by locking school boards perpetually into past agreements over wages which are the single largest category of school expense. The economic recession, state aid decreases and local tax levy limits have dramatically illustrated the need to calibrate personnel costs to current revenues. Removing automatic step increases from the Triborough Amendment in the current economic climate prevents the loss of key personnel and the programs and services they provide to students.

#### A STATEMENT IN SUPPORT OF THE RESOLUTION FROM THE RESOLUTIONS COMMITTEE

The Resolutions Committee believes that support for the resolution is thoroughly expressed in the rationale.

### RESOLUTIONS RECOMMENDED FOR ADOPTION

#### 5. REGIONAL UNIFORM SCHEDULING

Submitted by the NYSSBA Board of Directors on June 9, 2012.

LOCAL	NYSSBA

- 1 **RESOLVED**, that the New York State School Boards Association facilitate
- 2 efforts to allow BOCES and their component school districts to create a
- 3 common calendar to allow for distance learning, shared programming and
- 4 regional transportation.

## **RATIONALE**

New York State is immersed in a fiscal crisis that may well be long-term in nature. With high taxes, high debt level and spiraling public educational costs, school districts demand greater operational efficiency to in order to provide students the needed array of programs and services. Regionalization, sharing of services and distance learning opportunities are greatly enhanced by a common time schedule. Classes shared through distance learning can be coordinated among several school sites when afforded the opportunity of a uniform calendar. Similarly, shared programs and services provided for multiple school districts at one central location can be made possible through uniform scheduling. Travel to and from these programs and services can be accomplished without significant disruption to the remainder of the school schedule for students and optimal use of staffing. Finally, coordinated regional transportation is an optimal means of providing special educational programs, private schooling and shared programming among several districts. The inefficiencies inherent in individual school districts providing transportation to and from distant locations no longer make this traditional practice affordable. In order to maximize fiscal resources, regional transportation of students should be coordinated among surrounding school districts to the extent logistically possible. Therefore, so that educational opportunities may be enhanced and limited fiscal resources maximized, BOCES and their component districts should work to establish a uniform calendar.

### **A STATEMENT IN SUPPORT OF THE RESOLUTION FROM THE RESOLUTIONS COMMITTEE**

The Resolutions Committee believes that support for the resolution is thoroughly expressed in the rationale.

#### **6. CREATION OF REGIONAL HIGH SCHOOLS**

Submitted by the NYSSBA Board of Directors on June 9, 2012.

- 1 **RESOLVED**, that the New York State School Boards Association support the
- 2 creation of a regional high school when locally determined to be educationally
- 3 or fiscally appropriate by the participating school districts.

LOCAL	NYSSBA

## **RATIONALE**

Fierce competition for scarce financial resources in New York State and our nation has made cost effective educational alternatives a top priority. Demographic shifts and the need to provide more advanced courses to prepare students for college and 21<sup>st</sup> century jobs, has further accelerated the pace of the exploration of workable alternative models.

Regional high schools are a proven model in many states; there are documented cost savings and an array of course offerings that only a regional economy of scale could provide. The Education Law in New York State, however, only permits regional high schools in Suffolk County.

This resolution would provide the opportunity for other areas of the state to form regional high schools and to derive the benefits experienced by this high school model.

### **A STATEMENT IN SUPPORT OF THE RESOLUTION FROM THE RESOLUTIONS COMMITTEE**

The advantages of the regional high school model are clearly stated in the rationale. In addition, however, there are buildings, fixed assets if you will, that are underutilized due to population shifts. Regional high schools not only provide cost savings and more numerous courses of instruction, but offer the maximization of fixed assets. Construction and renovation costs could be avoided by a new and re-purposed configuration of buildings serving several districts' students. The same principle applies to the operation of school transportation systems and bus purchases.

The key to the success of a regional high school model, and one that is embodied in this resolution, is local determination. Regional high schools as envisioned by this resolution would only be created if there has been research, planning and the weighing of the advantages and disadvantages this model would bring to two or more existing high schools and their respective districts.

The implementation of the provisions of this resolution would allow school districts to engage in the necessary research and planning. Under existing New York State law there would be absolutely no incentive to explore a regional high school model because such a model is not certified or eligible for state funding outside of Suffolk County. By allowing such research and planning to happen at the local school district level, critical aspects of barriers and efficiencies would be learned. The adequacy of incentive aid, for example, and others categories such as transportation and building aid for a shared regional high school will be identified and developed.

The development of a regional high school is also a way to preserve a central community by keeping the elementary and middle school in place. The regional high school model is the least destructive alternative to a merger which would remove the last vestige of community in many rural areas.

## 7. ELIMINATE STATE AID SPENDING CAP

Submitted by the NYSSBA Board of Directors on June 9, 2012.

LOCAL	NYSSBA

- 1 **RESOLVED**, that the New York State School Boards Association seek
- 2 legislation to cause the state to abandon the state aid spending cap (based
- 3 on personal income) for education.

### RATIONALE

New York State lawmakers have responded to property taxpayers' frustration over ever increasing taxes by enacting various measures to control public school spending. In addition, to cutting state aid and enacting the tax levy cap, New York enacted a state aid spending cap for education. The spending cap equates to the percentage rise in personal income as calculated by the New York State Division of the Budget. This year it is a 4 percent increase and next year it is purported to be a 3 percent increase. All of this on top of two years of frozen aid plus sizable reductions in the foundation aid due to the states Gap Elimination Adjustment, not to mention the absolute abandonment of the financial plan agreed upon by the CFE settlement seven years ago. It is inappropriate to place an artificial fiscal cap on the performance of a constitutionally mandated obligation.

### A STATEMENT IN SUPPORT OF THE RESOLUTION FROM THE RESOLUTIONS COMMITTEE

Schools across the state have seen increased costs for salaries, pension and healthcare insurance. New York State government has reacted to the public outcry for tax relief by attempting to control public school spending – other than charter schools. Historically, spending caps, price controls and other artificial attempts to control costs and spending have failed at the national, state and local levels. Spending caps do not allow for the flexibility to meet obligations in a mixed source of funding such as New York's public schools.

Despite New York's equalizing state aid system, there remain tremendous disparities between school districts in the fiscal resources available to support education. Since about half of school revenues come from local property taxes, it follows that differences in spending are closely associated with disparities in property wealth. Higher expenditures per pupil are associated with higher actual property value per pupil.

The purpose of state aid is to maintain the state and local partnership in public education. Furthermore, state aid is given to equalize school revenues in inverse proportion to each school district's ability to raise local revenues. Albany is never short of ironies and the spending cap just adds to the list.



A spending cap tied to personal income can have the effect of causing taxpayers to pay more property tax for schools when their personal income drops. A drop in personal income will reduce the state aid and the school district will seek higher property taxes to make up the difference. So if the state is to control how much the school district raises to support education and attempt to equalize for disparity, they need to repeal the spending cap to achieve these two goals.

Suffocation of public education is not a state purpose nor a duty outlined in the state constitution. Rather than artificially cap a constitutional state responsibility, the state must make significant, legitimate efforts to unburden schools of state imposed mandates.

#### **8. GROWTH IN LOCAL TAX BASE UNDER CONTINGENCY BUDGETS**

Submitted by the NYSSBA Board of Directors on June 9, 2012.

- 1 **RESOLVED**, that the New York State School Boards Association seek
- 2 legislation to allow contingency budgets under the property tax cap to be
- 3 adjusted for growth in the local tax base.

LOCAL	NYSSBA

#### **RATIONALE**

Under a contingency budget, school districts should be allowed to increase the prior year levy by the same percentage increase as the growth factor as issued by the New York State Department of Taxation and Finance.

Currently, districts under a contingency budget must operate under strictly the same property tax levy as the prior school year. Growth in the tax base (due for example to influx of business or development) is disregarded and cannot be factored into the calculation of the tax levy limit.

When new businesses move into the community, the state should authorize the tax levy to increase over the prior year by the amount in new taxes paid by the new commercial development. The additional local revenue will help support the district's maintenance of educational and extracurricular programs.

Further, given that an increase in the tax base growth factor is sometimes associated with an increase in pupil enrollment, the additional revenue will help ensure that districts have the funds necessary to serve the additional students enrolled.

#### **A STATEMENT IN SUPPORT OF THE RESOLUTION FROM THE RESOLUTIONS COMMITTEE**

The Resolutions Committee believes that support for the resolution is thoroughly expressed in the rationale.

## 9. TEACHER LICENSING REFORM

Submitted by the NYSSBA Board of Directors on June 9, 2012.

LOCAL	NYSSBA

- 1 **RESOLVED**, that the New York School Boards Association support
- 2 legislation to diminish the need for local school district teacher disciplinary
- 3 hearings by strengthening the state process for revoking teacher certification.

### RATIONALE

New York State's procedure for teacher professional discipline is dysfunctional at virtually every level. Indeed, it is so dysfunctional that it serves as a disincentive to engage in teacher discipline when such action is otherwise appropriate. The process takes far too long to serve either the school district or the employee. It is far too costly to the taxpayer that must often pay for substitute teachers for years, legal fees, administrative time and salary for employees that may well not be allowed back in the classroom in order to protect the educational interests, emotional development or safety of students. Presently, the New York State Educational Department (SED) waits until the conclusion of 3020-a proceedings before bringing a Part 83 action to revoke teacher certification. While this may well serve the state's financial interests, in that it avoids the presentation of evidence in the subsequent state action, it is the reverse of what should logically occur. If alleged actions by a teacher, if proved true would be sufficient to bar that teacher from the profession, local school districts should not need to conduct a hearing to determine a level of local discipline. This practice is unique to the teaching profession and is anomalous to the state's disciplinary procedures in all other professions. It would be difficult to envision a physician or attorney undergoing a two year hearing by their individual employer prior to the state acting on an allegation of conduct egregious enough to warrant revocation of a professional license. School districts can no longer afford (and more importantly, students should no longer be subjected to) the educational disruption and harm inherent in the current process. When a matter rises to a level that, if true would call for state license revocation, the employee should be suspended and a state Part 83 hearing conducted prior to any local 3020-a proceeding. If the result of the Part 83 hearing is license revocation, no 3020-a hearing should be conducted.

### A STATEMENT IN SUPPORT OF THE RESOLUTION FROM THE RESOLUTIONS COMMITTEE

The Resolutions Committee believes that support for the resolution is thoroughly expressed in the rationale.

## 10. PARENT TRIGGER LAW FOR CHARTER SCHOOL CONVERSION

Submitted by the NYSSBA Board of Directors on June 9, 2012.

LOCAL	NYSSBA

- 1 **RESOLVED**, that the New York State School Boards Association oppose
- 2 legislation permitting New York State parents the legal ability to convert a
- 3 failing public school into a charter school by way of a “parent trigger” law.

### RATIONALE

NYSSBA has opposed charter schools largely because they deplete the scarce funds available to school districts. Most charter schools are located in high-needs urban districts that can least afford to lose revenue. This year, the Albany City School District alone spent over \$33 million of its budget on charter school payments. Districts that lose students to charter schools must transfer the per-pupil operating expense to the charter school, but there is no corresponding reduction in district costs. As a result, many of these districts have had to scale back programs, shelve new initiatives, and consider school consolidation. To add insult to injury, parent trigger laws are now being explored to convert struggling public schools to charter schools, further exacerbating the funding problem.

Parent trigger laws allow parents to convert a failing public school into a charter school by privatizing it, replacing staff, or even shutting the school down if fifty-five percent of the parents of current students approve. Inherently, this is a bad idea. Parent trigger laws place public schools in private hands and impede real progress in education. Converting public schools into charter schools and depleting resources from local school districts to fund them hinders a school board’s ability to serve the greater student population. Public schools are built with public funds; these schools belong to everyone. 55 percent of parents should not have the power to privatize a public service paid for by an entire community. The school means more to a community than just education. It is the heart of civic activities and the anchor that holds businesses to the district. The voters who trigger the charter conversion should not be limited to current parents of the children in the school, when future students’ parents would want their children to attend these public schools.

Parents who are frustrated with lack of programming and low test results would be attracted to enacting a parent trigger law. This legislation would force school districts that struggle to provide a sound educational environment to release the reins and allow for heavy parental influence and private funding and control over a school. However, studies have shown that the presumed benefits to school privatization are usually not realized. Charter schools are overall no more successful than traditional public schools, and conversion charters created from failing schools are especially challenged. Attrition rates in city charter schools are high, and many charter schools intentionally under-enroll special education students. Additionally,

many companies and foundations that fund charter schools target low-income communities, offering them what sounds like a good alternative to public schools which in reality is no better or sometimes even worse. A parent trigger law in New York State would open the floodgates to companies and conservative-leaning philanthropists who exploit desperate and frustrated families while enriching their shareholders with scarce public education dollars. NYSSBA is of the position that hostile parent trigger legislation is no way to improve public education.

## A STATEMENT IN SUPPORT OF THE RESOLUTION FROM THE RESOLUTIONS COMMITTEE

The Resolutions Committee believes that support for the resolution is thoroughly expressed in the rationale.

### 11. REMOVAL OF SEAT TIME

Submitted by the Newark Valley School Board on May 14, 2012;  
endorsed by the Harpursville School Board.

LOCAL	NYSSBA

- 1 **RESOLVED**, that the New York State School Boards Association advocate
- 2 for regulatory change which would permit local districts to determine whether
- 3 seat-time in a course should be required for course credit and/or graduation
- 4 requirements.

## RATIONALE

- 1) In order to truly consider flexibility in school day, week, and year, and to consider the most effective uses of technology (podcasts, Internet learning, etc...), the "seat time" requirement must be removed.
- 2) "Seat time" has no place in a system based upon "exit criteria" and "demonstration of knowledge", which are not time-based measures.
- 3) "Seat time" should be a local option, but should not be required by the state. This should be an item of local control where the decisions impacting individual students are most effective. SED may choose to set minimum knowledge standards that must (at least) be met and local districts would have to meet those. Local districts could also enhance the minimum requirements at their discretion including requiring an amount of "seat time" to gain course credit.

New York education is operating under at least two significant handicaps for modernization. First, budgets are shrinking. There is little that can be done about that. Second, we require our students to sit in a class even if there are other ways or faster ways to have students learn material and schools to teach material. K-12 education is falling behind other educational offerings from colleges as well as from other countries that are taking advantages of

changes in technology and society. "Seat time" is also required for \*all\* students regardless of their ability to learn the material, which disregards the entire premises of differentiated learning and developmentally appropriate education.

Students who can pass a state exam with mastery on the first day of a class are held back to have to sit in the class for 180 hours of instruction in order to get course credit. They could just have easily received a 70 in the course materials and a 67 on the state exam and be awarded credit. These two situations are clearly not equal but our system treats them as if they are.

Students who can demonstrate sufficient knowledge in the subject area should be given credit and allowed to move on to other educational opportunities to grow their knowledge and experiences.

Removing the seat time requirement would allow teachers to focus upon students who need the teaching/classroom environment in order to pass the standards. Such focus on students is a better use of our limited resources. Keeping better students in the classroom to help the poorer students along is a burden that should not be placed upon students. That is the teacher's role. Similarly, it is the teacher's and the district's role to provide meaningful learning to all students. It is a misdirection of our educational mission to hold some students back to benefit others. We need to promote appropriate, differentiated learning for all of our students.

Additionally, it is not necessarily the "brightest" students who would benefit the most. The students who are disengaged from school today are primary targets of this change. They would now have a real and tangible benefit to coming to school and learning the material: they may get the credit early instead of after 180 forced hours of disengaged classroom time.

Our two most recent NYS commissioners of education have spoken about the need to re-evaluate seat time. The NYS Council of School Superintendents is already on record as supporting the removal of seat time as a requirement for course credit. NYSSBA should join the movement. We need to focus on outcomes and recognize that 180 hours doesn't make the outcome, knowledge does.

#### **A STATEMENT IN SUPPORT OF THE RESOLUTION FROM THE RESOLUTIONS COMMITTEE**

The Resolutions Committee believes that support for the resolution is thoroughly expressed in the rationale.

## 12. COMPETITIVE PERFORMANCE GRANTS

Submitted by the NYSSBA Board of Directors on June 9, 2012.

LOCAL	NYSSBA

- 1 **RESOLVED**, that New York State School Boards Association seek legislation
- 2 to prevent a portion of state education aid from being directed to competitive
- 3 performance grants.

### RATIONALE

State aid for education must be distributed directly to school districts rather than through competitive grants.

Fiscal constraints in recent years have required school boards to make difficult decisions – cuts in personnel, extracurricular activities and academic programs. Districts have cut where they can, depleted reserve funds, and implemented efficiency measures.

State aid to schools was frozen for two school years and reduced for two more. The Legislature and governor have limited districts' revenue sources. State aid is now limited to the growth in personal income tax and local revenue is limited by the property tax cap.

Hundreds of districts across the state, primarily high-needs, low-wealth districts, face education insolvency within the next few years.

Districts need all of the funding that the state can allocate to education. School aid, unlike competitive grants, attempts to equalize differences in wealth and ability to pay among districts. There is a time to compete for school aid but this is not it. By definition, in a competition there are winners and there are losers. The reality is that districts most in need may be cut out of the competition. With cuts in personnel, including administration, an administrator is not likely to have the time to complete a quality proposal or grant application and certainly, districts are hard-pressed to find the money to hire a grant writer or an individual to conduct the necessary research for the grant application.

Competition is not going to make districts' basic needs magically disappear. Proponents of competitive grants argue that they are tired of the state giving districts blank checks when student achievement fails to improve. The simple answer is that cuts in teachers and course offerings due to lack of funds are not helping academic achievement.

Competitive grants have merit and are well intended. However, as a practical matter, when school boards are having difficulty balancing their budgets because of a lack of funding for basic district needs, competing for state aid is unrealistic and an affront to teachers who are laid off, students who no longer

have the extracurricular and course offerings they need, and school boards who work tirelessly to balance budgets that meet the needs of their students and are sustainable by their communities.

School districts are facing tremendous fiscal challenges. The state must partner with districts to help them continue to provide a quality educational program for their community's students. Schools need support, not public condemnation. Schools need state aid, but they do not need a financial incentive through competition to perform better. Their incentive continues to be this state's greatest asset – their students.

### **A STATEMENT IN SUPPORT OF THE RESOLUTION FROM THE RESOLUTIONS COMMITTEE**

The Resolutions Committee believes that support for the resolution is thoroughly expressed in the rationale.

#### **13. DIGITAL LEARNING OPPORTUNITIES**

Submitted by the Newark Valley School Board on May 14, 2012;  
endorsed by the Harpursville School Board.

LOCAL	NYSSBA

- 1 **RESOLVED**, that the New York State School Boards Association advocate
- 2 for the removal of obstacles to, and the expansion of digital learning
- 3 opportunities as part of a public school education.

### **RATIONALE**

The world is changing rapidly. Our children are often far ahead of their parents and teachers in technology and the information it can offer to them. Putting these children into a traditional classroom is like moving them back to the Stone Age and expecting them to remain interested and thrive.

We need to recognize that learning is changing for our children. Our children have already adapted to it. They have access to learn when and where they want. We need to engage them in the way that they are ready to learn and know how to learn.

We are not doing enough to change our mechanisms of teaching to keep up with how our children are getting their information. We need NYSSBA to be a strong voice for enhancing and transforming the learning and teaching model. While many other changes need to also happen to make digital learning beneficial, we need to work on having the availability and focus on digital learning otherwise our students will have to wait even longer for digital learning opportunities to be available.



Note: There are many examples of digital learning that are already in place. Many colleges offer credit bearing online courses. The online Khan Academy is also a great example of “flipping the educational model” where students get the instruction they need online and the guidance they need from teachers in doing the homework.

### **A STATEMENT IN SUPPORT OF THE RESOLUTION FROM THE RESOLUTIONS COMMITTEE**

The rationale clearly states the need to create digital learning opportunities for students. New York State is generally recognized as lagging behind most states in providing digital learning opportunities. In a rapidly changing and competitive economic climate, our schools must be a gateway to expansive technology use, providing students with access to technology and encouraging its use. Students need the skills to research, process and apply the rapid flow of information available through technology. NYSSBA must be at the forefront of advocating for digital learning opportunities in public education.

Students in school today need to have tools available to them to be competitive among their peers globally, both in college and in the workplace. Technology advancement is ongoing; their education cannot wait for the economy to improve. Advocacy for federal and state aid for schools must emphasize the necessity of providing districts with the resources to make technology accessible to all students.

Digital learning can provide high quality learning opportunities while making efficient and effective use of limited resources. For example, digital learning allows districts to offer courses which may otherwise have been cut due to lack of funding or lack of a highly qualified teacher from the district. Highly-trained professionals who are recognized in their fields as experts in science, technology, engineering and math (STEM) and other disciplines can virtually share their expertise and interact with students.

Students are also provided opportunities for individualized learning. In other words, digital learning programs can be tailored to meet an individual student’s learning styles and pace. Blended or hybrid learning provides opportunities for students to benefit from both classroom instruction and individualized online learning. Such opportunities for individualized learning may be particularly beneficial for students in nontraditional settings such as incarcerated youth, hospitalized students and homeschooled students,

Further, digital learning has the potential to engage students. Too often students complain of being bored in school without the fast-paced technology and even video games that they are accustomed to outside of the school building. For instance, high-quality virtual laboratory experiences or

interactive work online with students in other districts or even countries has the potential to engage students in learning.

Digital learning is evolving, just as technology is constantly evolving. New York State is currently much less involved in digital learning than other states, largely due to collective bargaining and teacher certification issues. For instance, only New York State certified teachers may currently provide digital instruction; dramatically reducing digital learning opportunities. Similarly, individual district contractual restrictions may limit the use of subject matter experts for instructional purposes. It is impossible to predict the technologies that will be a part of our students' future lives. Public education must incorporate high-quality digital learning to ensure that students are prepared. Do not mistake digital learning opportunities for students in traditional public school with advocating for a virtual charter school.

#### **14. ACCOUNTABILITY FOR SCHOOLS OF EDUCATION**

Submitted by the NYSSBA Board of Directors on June 9, 2012.

LOCAL	NYSSBA

- 1 **RESOLVED**, that the New York State School Boards Association support the
- 2 State Education Department in efforts to hold university schools of education
- 3 accountable for the quality of teachers they produce as graduates.

#### **RATIONALE**

The current structure of higher education for our state's future teachers calls out for greater accountability and alignment with the Regents Reform Agenda, Common Core and teaching with effective data use. Currently, college or university schools of education operate autonomously of current requirements for teachers who are in the practice of their profession. Each school of education develops their curriculum based on the desires, skills and research interests of the faculty. While many basic courses are taught regarding pedagogical subjects, there is no formal effort to blend the needs of the teaching practice with the education school's faculty strengths and interests. School board members are negotiating APPR agreements and (along with the commissioner of education and the Regents) realize that schools of education need to be accountable for producing the teachers they will have to evaluate and develop.

#### **A STATEMENT IN SUPPORT OF THE RESOLUTION FROM THE RESOLUTIONS COMMITTEE**

School boards across New York State are implementing the new teacher and principal evaluation system. The evaluations are based on testing, in-class observation and rubrics of accountability. In order to have the best teachers in front of our students we need to know that university schools of education are not only aware of the new environment for teachers but accountable for

producing highly qualified graduates from their programs. The teacher of tomorrow will need to not only know their subject area well and be able to communicate it to students, but also use data driven evidence to push their students to higher levels of achievement. In order to accomplish all of this and more, schools of education need to be held accountable by the State Education Department that their graduates are qualified. The commissioner of education also holds the role of president of the University of the State of New York state. Each school of education, along with its corresponding college or university, must have the blessing of the president and the Board of Regents to operate in New York State. Thus, the commissioner /president along with the Regents should have some authority to require specific accountability measures be met for the conferring of degrees upon future teachers.

#### 15. CHARTER MEMBERSHIP

Submitted by the Newark Valley School Board on May 14, 2012;  
endorsed by the Harpursville School Board.

LOCAL	NYSSBA

- 1 **RESOLVED**, that the New York State School Boards Association impanel a
- 2 committee to report on the feasibility of allowing charter schools to become
- 3 members of the New York State School Boards Association.

#### RATIONALE

Charter schools exist. We cannot deny their existence. We are not eliminating them. Their numbers are growing. They represent children of our state...our children. They are public schools.

NYSSBA represents a tremendous knowledge base to further the education of all children. NYSSBA is a strong voice for the needs of education in the state.

Charter schools must now show how they would address an existing educational need in the host community. If NYSSBA is to properly provide training and information to all public schools then charter schools must be allowed membership in the association created to perform that function.

In return, charter schools are free from many of the burdens of traditional public schools and were put into place to be incubators of educational innovation. This could lead to a stronger reform effort for all schools, including reformed funding mechanisms for charter schools by putting the pressure back on the State to fund the schools instead of the host districts.

We should welcome diverse voices into our membership to challenge our ideas and make our combined voice stronger. We need to think differently

and take the best from all educational environments to hone the best educational mission possible.

Our purpose is not so shallow that it cannot withstand a diversity of membership and opinions. In fact, we will be stronger for it.

### **A STATEMENT IN SUPPORT OF THE RESOLUTION FROM THE RESOLUTIONS COMMITTEE**

NYSSBA was created by an act of the Legislature to improve public education through advocacy and information provided to the trustees of public schools. Though they are not publicly elected, charter school boards of education are trustees of public schools. NYSSBA member boards come in a variety of forms, including those that are appointed, those that are popularly elected, those that are elected by component boards and those that are paid. Charter schools have become an established segment of the public educational system, having had their allowable numbers increase twice since their original authorization.

NYSSBA members' opposition to charter schools has revolved largely around funding. In other states, schools receive their charters through their school districts and once chartered, the state pays for the charter school. The reverse is true in New York State, where the state does the chartering and forces local districts to pay, irrespective of the impact on the existing educational program. Traditional school districts usually have little objection to private and parochial schools, since they have a lesser financial impact on the existing program. Much has changed since the original law was passed, including the fact that charter school applicants must now show how they would address an existing educational need in the host community. If NYSSBA is to properly provide training and information to all public school trustees, charter school boards must be allowed membership in the association created to perform that function.

Charter schools enjoy the kind of mandate relief sought by all school districts. If their funding structure is the real impediment to a collaborative working relationship between charters and host school districts, then NYSSBA membership might well enable a strong advocacy alliance to place the funding responsibility on the state.

Charter schools were meant to be an incubator of educational innovation and a model for relief from collective bargaining and burdensome 3020-a proceedings. NYSSBA membership for charter schools could well lead to a stronger reform effort for all schools, greater sharing of educational programming, greater accountability and efficiency for all member school boards and a more powerful advocacy presence on behalf of all boards of education.

The time has come for NYSSBA to make a thorough assessment of whether charter schools should be offered membership. No decision of this magnitude should be undertaken prior to a substantive examination of the issue by the current membership.

# 16. CHARTER SCHOOL LAW EXPANSION FOR VIRTUAL CHARTER SCHOOLS

Submitted by the NYSSBA Board of Directors on June 9, 2012.

LOCAL	NYSSBA

- 1 **RESOLVED**, that the New York State School Boards Association oppose
- 2 legislation expanding New York State's charter school law to allow for virtual
- 3 charter schools.

## RATIONALE

With the advent of new technology and the efficiency it brings to the realm of public education, online learning and cyber-school enrollments are now estimated at 250,000 students in almost 30 states. This growth in virtual schools is rooted in the theory that corporate efficiencies, combined with the Internet can revolutionize public education offering high quality at reduced cost. However, the reality is that large percentages of virtual students fall behind a grade level in math and reading, and many of these students do not graduate on time. On average, hundreds of students withdraw from virtual schools within months of enrollment, and for those that remain, only a third of these schools achieve adequate yearly progress (AYP), the measurement mandated by federal Elementary and Secondary Education Act (ESEA) standards.

Education corporations can expect to profit in the hundreds of millions of dollars in cyber-education, regardless of the sufficiency of the education they provide virtual students. These companies receive money from school districts on the state level as well as subsidies from the federal government. In some states, they collect nearly as much taxpayer money per student as brick-and-mortar charter schools without any actual facility costs, which is extremely unjust to virtual students as a large percentage of the profit is spent on advertising. Whether our students succeed or fail, these corporations win.

Virtual charter schools are simply not the answer to improving public education in New York State, as the issues that plague traditional schools also plague virtual schools. For example, the teachers who work for online learning service providers are forced to take on more and more students, relaxing rigor and achievement benchmarks. These teachers do not have the burden of a full day of classes. However, they must field questions from students and parents, monitor student progress, and review and grade class work for more than 250 students each. In Pennsylvania, low wages

combined with high class loads have led to unionization battles, all to the detriment of the students enrolled in these schools.

Moreover, virtual students miss out on the socialization provided by brick-and-mortar charter schools. These students work from home, hundreds of miles from their teachers who must communicate with their students via telephone or email. There is no cafeteria, no gym, and no playground. Child development requires regular interaction with other children for purposes of developing self-definition as well as collaboration and teamwork skills. There is a time and place for virtual learning, perhaps for the more advanced and personally-responsible child, but for most children, particularly in elementary grades, the traditional public school or even charter school experience should not be replaced by virtual charter schools.

### **A STATEMENT IN SUPPORT OF THE RESOLUTION FROM THE RESOLUTIONS COMMITTEE**

The Resolutions Committee believes that support for the resolution is thoroughly expressed in the rationale.

#### **17. STATE AID FOR TRANSPORTATION**

Submitted by the Rochester City School Board on July 27, 2012

- 1 **RESOLVED**, that the New York State School Boards Association support the
- 2 provision of state aid for transportation of students in child safety zones for all
- 3 school districts and when hazards of any type have been demonstrated to
- 4 jeopardize student safety in walking to school.

LOCAL	NYSSBA

### **RATIONALE**

NYS Education Law Article 73, Part 3, § 3635-b allows school districts to determine whether a “hazardous zone” exists that would jeopardize child safety in walking to and from school. If a hazardous zone is shown to exist, then the district may create a “child safety zone” to provide transportation within the statutory distance limits created for regular transportation (i.e., two miles for K-8 students and three miles for students in grades 9-12). These additional transportation expenses are eligible for state aid.

However, the law applies to “common, central, central high school, union free school district, or city school district of a city with less than one hundred twenty-five thousand inhabitants...” (NYS Education Law Article 73, Part 3, § 3635-b, Section 1) and specifically excludes districts in cities with more than one hundred twenty-five thousand inhabitants (i.e. large city school districts). Therefore, there is no legal mechanism for large city school districts to obtain reimbursement for transportation expenses incurred to protect students against hazards encountered in walking to school. This is an issue of equal

protection under the law for all students, regardless of the type of district in which they reside.

Moreover, the law only recognizes specific types of hazards based on “physical safety conditions”, such as:

- existence of sidewalks
- type of road surface
- width of road and of sidewalk
- volume and average speed of traffic
- density of population
- the commercial, industrial, or residential character of the area, and
- presence of traffic safety features (i.e. traffic lights, street lights, and traffic patrols)

Yet many other circumstances could potentially jeopardize student safety in walking to school, and the law should not restrict the definition of “hazard” to such a narrow and specific set of pre-determined criteria based on road and traffic conditions. The emphasis should be on protecting students, regardless of the nature of the threat to their safety.

#### **A STATEMENT IN SUPPORT OF THE RESOLUTION FROM THE RESOLUTIONS COMMITTEE**

A school board’s ability to protect children is of paramount importance, and this responsibility extends to ensuring child safety while traveling to and from school. Therefore, there should be no legal roadblocks to large city school districts (Rochester, Buffalo, Syracuse, and Yonkers) creating “child safety zones.” All school districts in New York State, irrespective of district size, should be allowed to: (1) determine whether road conditions render a child’s walking and biking route to school hazardous, (2) create safety zones in which children who live in these areas may be bused to school, and (3) receive the State Aid necessary to cover the transportation costs.

In 2005, the federal government enacted the Safe, Accountable, Flexible, Efficient Transportation Equity Act (SAFETEA-LU), guaranteeing \$244.1 billion in Title I funding for highways, highway safety and public transportation (the largest surface transportation investment in the nation’s history). Included in the act was the Safe Routes to School initiative that granted millions of dollars in funding to support New York State’s efforts to provide safe walking and biking conditions for children traveling to and from school. Section 3635-b of the Education Law (School Safety Zone Law) was extended (and made permanent in 2005) to continue the initiative; however, federal funding ceased in 2009, leaving school districts with the fiscal responsibility to cover future additional transportation costs. If the state Legislature saw fit to continue the child safety effort, then the state should



provide all school districts with the state aid they need to create child safety zones in accordance with the law.

It is especially important for large city school districts to have the capability to create child safety zones because large city roadways are plagued with many hazardous conditions creating dangerous walking and biking routes for school children (e.g., highways without sidewalks, highway intersections, and railroad crossings). Accordingly, the definition of “hazard” should be expanded to include any condition that would endanger a child’s commute to school.

Additionally, in these densely populated areas, accommodating a few more students on a bus route for the sake of safety, even if these children live within 2-3 miles of their schools, may well be economically viable. The nominal cost associated with ensuring child safety is an investment that large city school boards should be entitled to make.

#### 18. REFERENDUM ON CONSTITUTIONAL CONVENTION

Submitted by the NYSSBA Board of Directors on June 9, 2012.

- 1 **RESOLVED**, that the New York State School Boards Association advocate
- 2 for and support holding a statewide referendum on or before 2017 to
- 3 convene a New York State constitutional convention.

LOCAL	NYSSBA

#### RATIONALE

The New York State Constitution requires that a statewide referendum be placed on the ballot at least once every 20 years. This referendum was last offered in November 1997. Just one month earlier, the New York State School Boards Association had adopted a resolution at its Annual Business Meeting endorsing the upcoming New York State constitutional convention proposition. The NYSSBA resolution passed with a 63 percent approval.

However, the statewide proposition did not pass in the public vote in November, predominantly due to the publicly accepted perception that a constitutional convention would be too costly, that the same old faces from Albany would run the convention, and that the state Legislature could act on its own to fix specific problems it identified without the need for a so-called costly convention.

Sadly, 15 years later, no constitutional amendments of statewide significance to public education have been presented for public vote. Current school district frustrations with the state are worse now than they were 15 years ago. Nothing has changed except that the hole dug by the state for school districts is now deeper. Further, our schools are facing the worst fiscal crisis in

history, leaving districts not just with capped property tax and state aid revenue, but with fewer ways for school board members to address the growing crisis.

The rationale for the NYSSBA resolution adopted in 1997 rested upon the realization of a dysfunctional state government and school board frustration with late state budgets, undependable state aid, over-regulation, unfunded and underfunded mandates, and legislative barriers for school districts to achieve efficiencies.

What has changed? What needs to change? Your association has a constitutional convention taskforce asking those questions and inviting expert advice. The taskforce members have been working to provide an informative process for delegates to make their decision.

Besides repeatedly stating to school district residents the difficulties we face, it is time for us to take action. Adopting this resolution demonstrates to taxpayers that we are looking for avenues to solve the barriers that exist to providing a cost-effective public education.

In 1997, NYSSBA was not prepared with a position to act in support of the statewide referendum. Now, the time is ripe for a constitutional convention to be proposed, giving NYSSBA adequate time to advocate and adequate time to prepare the public for an informed vote.

Our proposal for a constitutional convention is not partisan. It is pro-student and pro-school district. The New York State school board members are 5,000 concerned citizens strong and NYSSBA is our unifying voice. The fact is that the very frustrations that led to NYSSBA's constitutional convention support in 1997 are worse today. NYSSBA should be prepared to advocate for and endorse the constitutional convention referendum as part of its legislative agenda for the next several years, until it happens or in 2017, whichever comes first.

#### **A STATEMENT IN SUPPORT OF THE RESOLUTION FROM THE RESOLUTIONS COMMITTEE**

In 1997, NYSSBA passed a similar resolution with a 63 percent favorable vote. Today a recent poll found 61 percent of our members support a constitutional convention. Observing the current events of state government leads many to believe a new delegate vote will have even more support. Not since 1967 has there been a state constitutional convention and the state Legislature fears such a convention will take away some of their power. However, as Gerald Benjamin (a noted political scientist at SUNY New Paltz) recently said, "A constitutional convention is a people's meeting to design or redesign the people's government." It is important to get out early and

advocate for the convention and the necessary reforms that will truly make the convention a meaningful and historic event whose results will be ratified by the public. With past dysfunction in state legislative government, with the Legislature's seeming inability to address either the needs of our schools or the communities and taxpayers that support them, the time is right for a fundamental discussion of issues that can only be sufficiently aired at a constitutional convention. Issues might include term limits for legislators, a non-partisan commission to draw legislative district lines or the concept of each county having a single senator and others. In a time when state government appears unable to fulfill its duties to schools, the people have the responsibility to convene and rectify matters in support of their inalienable rights as citizens.

## 19. DATA PRIVACY

Submitted by the Briarcliff Manor School Board on August 1, 2012.

LOCAL	NYSSBA

- 1 **RESOLVED**, that the New York State School Boards Association support the
- 2 requirement that New York State establish a framework to create a robust
- 3 and comprehensive standard to proactively ensure the safe handling of
- 4 student and staff information collected and transported by data collecting
- 5 systems.

## RATIONALE

The New York State Education Department, as part of its implementation of the provisions of Education Law § 3012-c regarding annual professional performance reviews (APPR) of classroom teachers and building principals, has published an approved list of student assessments which are created by various vendors who will store student test results and other student information to be used in teacher and principal evaluations. A link to the approved vendor list can be found on the NYSED.gov Race to the Top website <http://usny.nysed.gov/rttt/teachers-leaders/assessments/>.

New York State currently requires student information be fed to numerous systems. A link to most of the systems with data can be launched from sources such as the Southern Westchester BOCES Lower Hudson Regional Information Center's website <http://www.lhric.org/reporting.cfm>. Examples of data fed to these various systems are student/teacher demographics, enrollment, IEP and 504 student information, free and reduced lunch information, assessment information, student grades, student accommodations, and attendance in classes; assignment of a distinct state ID for every student and collection of parent information, official New York State reporting and certification information.

The Regents Reform Agenda is based on the goal that all students will graduate from high school in New York State ready for college and careers.

To achieve this, the Regents and the New York State Education Department have set a goal to prepare the state's P-12 education system for a transition to computer-based testing with an objective of implementation starting in the 2014-2015 school year. This will require the creation and maintenance of computer-based systems to store, send and receive student data so that teachers and administrators have more immediate feedback on student achievement, help address student mastery of knowledge and skills, guide instructional planning in subject areas and enable expanded access to technology based personalized learning.

New York State government has placed requirements on school districts to collect and maintain student and staff data for various reporting purposes. It has a network of this information and currently does not allow a school district to choose how much and with whom this information is being shared. With all the requirements to submit student's and staff's personal information, from initial data transport into a data warehousing system, as it flows through various New York State vendor approved data systems networks, to its final New York State Government destination. It is imperative that anyone in the data information chain with whom the state chooses to use to facilitate this information gathering and storage should be party to a strict internal regulations framework to keep students and staffs information safe and confidential; this will ensure adherence to critical protective measures such as security management, policies, procedures, network architecture and software design.

#### **A STATEMENT IN SUPPORT OF THE RESOLUTION FROM THE RESOLUTIONS COMMITTEE**

Student safety is of paramount importance. This resolution recognizes the sensitivity of children's personal information and the subsequent need for ensuring the confidentiality of such information.

The exponential increase in the volume of student data that is being required necessitates the expeditious adoption of this resolution and the safeguards that it will impose.

The various state and federal reporting requirements, aptly described in the resolution's rationale, in combination with the 2014-2015 school year implementation of computer based testing in New York State, speak to the need to take immediate action to prepare our secure student data system.

The existing stringent and comprehensive federal Family Educational Rights and Privacy Act (FERPA) statute and regulations govern school districts' protection and distribution of students' personal information. These protections are for naught if the delivery and storage of such data can be

“hacked” by outside sources for commercial or, worse, nefarious purposes such as identity theft.

The resolution’s clarion call for standards in security management and appropriate network and software design is timely. The adoption of this resolution will provide sufficient time for the State Education Department (SED) to prepare appropriate RFPs. The potential vendors, applying for contracts that are necessary to implement a computer based testing system, will be able to adequately prepare and “cost out” their proposals. Such timeliness and attention to these safety measures will further enhance the vetting of vendor applications and will ensure that the system will possess viable data safeguards on day one of its implementation.

## DEADLINES FOR AMENDMENTS AND REBUTTALS

Proposed resolutions were submitted to NYSSBA by August 1 and reviewed by the Resolutions Committee on August 20. No additional bylaw amendments or resolutions can be proposed at this time (Association Bylaw Article 17). A member school board may, however, propose an amendment to any resolution printed in this report by mailing the proposed amendment to each member board at least 30 days prior to the Annual Business Meeting – this year, on or before **September 26, 2012**.

To facilitate the amendment process, NYSSBA publishes an Amendments and Rebuttals brochure which is electronically transmitted to every school board member and superintendent. **Amendments and rebuttals to the proposed resolutions in this report must be received in NYSSBA's offices by 5:00 p.m. on Friday, September 21, to be included in the booklet.** This booklet will be electronically mailed following the **September 21** deadline.

**If a member board transmits a proposed amendment or rebuttal to NYSSBA by the September 21 deadline it does not need to be transmitted to other boards.**

Amendments to resolutions printed in the Amendments and Rebuttals brochure and any other amendments mailed to all member boards before **September 26** need not be submitted in writing at the rostrum of the Annual Business Meeting, but must be moved and seconded from the floor to be considered.

Any amendments not mailed to NYSSBA by **September 21** or to the membership by **September 26**, either as part of the Amendments and Rebuttals brochure or by a member board, will have to be submitted in writing at the rostrum, moved, seconded and voted upon at the Annual Business Meeting. A "majority of those voting" is necessary to approve an amendment. Pursuant to Article 17 of the Association's Bylaws, proposed amendments to the bylaws may not be amended on the floor.

Following adoption of the proposed Order of Business, the proposed resolutions will be considered in the order printed in this report. The resolutions have been categorized into three groups: Existing NYSSBA positions that are recommended for adoption on consent, recommended resolutions and not recommended resolutions. Those resolutions which the Resolutions Committee has recommended for adoption will be moved by the Committee Chair, no second being needed. Those resolutions not recommended for adoption will be considered only if they are moved and seconded by voting delegates from the floor.

## PRECEDENCE OF MOTIONS

Included here are those motions likely to be used in meetings of this Association.

While any motion on this list is under consideration, any other motion below it may be introduced.

1. Action on resolution
2. Postpone consideration of the resolution indefinitely
3. Amend resolution
  - a. by striking out designated words, or  
by adding words at the end of the resolution, or  
by inserting words somewhere within the resolution (specify where). or  
by striking out certain words and **in the same place** inserting new words
  - b. amend above amendment of resolution – by any of the four methods above
4. Refer that resolution to a committee
  - a. amend above motion to refer
  - b. amend above amendment of motion to refer
5. Postpone consideration of a resolution to a specified time later in this meeting
  - a. amend time to which it is to be postponed
  - b. amend above amendment of motion to limit or extend debate
6. Limit or extend debate on any debatable motion
  - a. amend above motion to limit or extend debate
7. Close debate and vote immediately on any debatable motion
8. Lay the resolution on the table (in order to take it from the table later in the meeting)
9. Any “incidental” motion
  - a. a motion to withdraw a motion previously introduced a request for information
  - b. call for division (i.e., for a show of hands or standing count when the result of any “aye” and “no” vote is in doubt)
  - c. a parliamentary inquiry
  - d. a point of order (be sure that it designates a parliamentary error by the president)
  - e. an appeal from any decision of the president
  - f. a quorum call
10. A request to raise a question of privilege
11. Recess
12. Adjourn



# PROPOSED RULES OF CONDUCT FOR THE ANNUAL BUSINESS MEETING

The following rules are recommended for adoption by the delegates. Once adopted, all delegates will know the rules by which they will be bound. Following them will make for orderly progress.

1. CREDENTIALS. The credentials of all voting delegates shall be displayed where they may be easily recognized.

2. PARLIAMENTARIAN. There shall be an official parliamentarian to whom questions may be directed only through the chair.

3. SEATING. All voting delegates shall be seated on the convention floor, or in the case of the Resolution Committee Chair, on the platform. All nonvoting members in attendance shall be seated in other locations designated by the chair.

4. NOMINATIONS. Pursuant to Article 7 of the Association's Bylaws, the chair shall announce the nominations from the Board of Directors for the offices of president, first vice president, second vice president, and treasurer. As set forth in Rule No. 8, once the nominee's consent has been secured, that individual shall have the right to address the delegates for not more than two minutes, after nominations are closed and prior to debate by the delegates as set forth in Rule No. 8. The order in which such nominees are asked to address the delegates will be determined by the drawing of lots.

If there are nominations from the floor, consistent with Article 7 of the Association's Bylaws, such vote shall be by a show of hands. If more than two individuals are nominated for any office, the individual or individuals securing the greatest number of votes cast will be elected.

If the chair of the meeting is nominated for any office in which other individuals are also nominated, the chair will call upon a vice president who has not also been nominated for such office to chair the meeting during the time that the election for such office occurs. In the event that both vice presidents are also nominated for the same office for which the chair has been nominated, the chair will call upon another officer of the Association's Board of

Directors who has not been nominated for such office to chair the meeting during the time that the election for such office occurs.

5. RESOLUTIONS. All resolutions will be considered in the order printed in the 2012 Proposed Resolutions booklet. Resolutions recommended for adoption by the Resolutions Committee require no second (Robert's Rules of Order, (4)).

5A. RESOLUTIONS ON CONSENT. Existing NYSSBA positions that have been resubmitted and recommended for adoption by the Resolutions Committee will be considered first, on consent. Any delegate wishing to remove a resolution from the consent agenda (and thus have it debated by the delegates) may do so by simply requesting that action when the consent agenda is called. If a resolution is removed from the consent agenda, it will be considered under "Recommended Resolutions" and needs no second.

6. PRESENTATION OF RESOLUTIONS. The Resolutions Committee chair or his or her designee shall move resolutions recommended by the committee and such motions shall not require a second.

7. RECOGNITION BY CHAIR. A voting delegate wishing to speak from the floor shall rise and secure recognition of the chair before speaking. The delegate shall give his or her name in full and the name of the board he or she represents.

8. DEBATE ON THE FLOOR. No voting delegate shall speak in debate more than twice on the same question or nomination, with the first presentation limited to two minutes and the second to one minute. No voting delegate shall speak a second time on the same question or nomination until all other voting delegates have had an opportunity to speak once.

Discussion on nominations for officers shall be limited to five minutes per nominee. If more than one individual is nominated for any office and accepts, each such individual nominated will be permitted to address the delegates for no more than two minutes, which shall not be subtracted

# PROPOSED RULES OF CONDUCT FOR THE ANNUAL BUSINESS MEETING

from the total time allotted for discussion of nominations described above.

In the event that there are two or more nominees for any office, the chair shall recognize delegates wishing to speak from the floor in support of particular nominees on a rotating basis at microphones designated for each candidate.

Discussion on a proposed amendment to the bylaws shall be limited to 15 minutes.

Discussion on a resolution shall be limited to 10 minutes.

Debate on any amendment to any resolution shall be limited to five minutes. Such time is not to be counted in that allotted to debate on the resolution itself. Amendments shall be considered and voted upon in the order presented. Amendments to a resolution should be voted upon prior to consideration of a second amendment. "Amendments to the amendment" should be avoided.

If continuation of a debate on a proposed amendment to the bylaws or on a resolution is desired, a motion may be passed by a majority vote to extend debate for no more than five minutes. A separate motion is required for each such extension of discussion time.

If continuation of debate on such an amendment to the bylaws or on a resolution is desired after time has already been extended once, a motion may be passed by a majority vote to extend debate time for no more than two minutes, with a separate motion required for each such extension of debate time.

9. WRITTEN SUBMISSION OF RESOLUTIONS. No late resolution may be introduced until it has been submitted in writing at the rostrum. A late resolution shall be considered under "Other Business." Such resolution shall be submitted by a motion to suspend Article 9, Section 2, of the Association's Bylaws. Such motion shall identify the subject matter and purpose of the resolution, shall require a second, be debatable, and shall require a two-thirds vote of the voting delegates present and voting.

10. WRITTEN SUBMISSION OF AMENDMENTS. No amendment to a resolution may be introduced until it has been submitted in writing at the rostrum.

11. PRIVILEGE OF THE CHAIR. The chair may call upon the Parliamentarian, Association staff members, members of the Board of Directors, and members of the Resolutions Committee to provide delegates with essential information regarding resolutions, bylaws and procedures. Time allotted for such requested explanations shall not be deducted from the total time allotted for discussion of the resolution.

12. RECORDING AND APPROVAL OF MINUTES. The Secretary shall be responsible for recording the minutes of the Annual Business Meeting. The Board of Directors is authorized to approve the minutes of the Annual Business Meeting at the first regular meeting of the board subsequent to the Annual Business Meeting.

## VOTING DELEGATE'S GUIDE

The voting delegates at the Annual Business Meeting vote on a slate of officers for the Association, including a president, a first vice president, second vice president and a treasurer. They debate and vote on changes to the Association's bylaws; and debate and vote on resolutions that will establish the Association's position on various legislative and policy matters.

**CHECK-IN PROCEDURE.** NYSSBA's bylaws require that a quorum of 200 voting delegates be present at the Annual Business Meeting in order for any business to be conducted. **The 2012 meeting starts promptly at 1 p.m., Saturday, October 27.** There is a check-in/check-out procedure for Business Meeting delegates. Each delegate must wear a delegate button to be admitted to the delegate floor where he or she will be issued a handheld voting device. To ensure a quorum is present throughout the meeting, each delegate will be issued a number. This number will be on the voting device. The voting device must be turned in each time a delegate leaves the floor. This procedure will allow NYSSBA to ensure only voting delegates are voting. If a delegate's alternate takes over during any part of the meeting, the alternate must follow the same procedure.

**ORDER OF BUSINESS.** The Order of Business for the Annual Business Meeting (page 2) is the agenda for the meeting. It sets forth the items of business which are scheduled to be accomplished during the course of the meeting.

The meeting will be promptly at 1:00 p.m. with several procedural items. First, the Association President, who presides throughout the meeting, will announce the presence of a **quorum**.

Following the announcement of a quorum, the president will call for a **motion to adopt the Order of Business**. The president will also call for a **motion to adopt the Proposed Rules of Conduct** for the meeting. These rules were prepared to be consistent with the Association's bylaws. The rules describe how delegates must conduct themselves during the meeting, such as setting out the time allotted for discussion of certain items. Delegates can find a summary and

clarification of the Proposed Rules of Conduct on pages 35 and 36.

**THE BUSINESS MEETING.** Next, the president will announce the winners of this year's Area Director election, which was conducted locally in each of the designated areas. According to NYSSBA's bylaws, area directors serve for two-year terms. Election of area directors in Areas 1, 3, 5, 7, 9 and 11 occur in odd-numbered years. Election of Area Directors in Areas 2, 4, 6, 8, 10 and 12 occur in even-numbered years. This year, election results will be announced for Areas 2, 4, 6, 8, 10 and 12.

**ELECTION OF THE NYSSBA OFFICERS** is the next item on the Order of Business. Each June the Board of Directors, which acts as the nominating committee for the delegates to the Annual Business Meeting, nominates a slate of officers who stand for election at the Annual Business Meeting. These individuals are automatically placed in nomination.

Once this occurs, the president calls for other nominations from the floor. If there are no such nominations, the vote is taken by hand at the time. If there is a nomination from the floor, the vote is also taken by hand after such individual accepts the nomination. The president when announces the winner.

**PRESENTATIONS.** A series of reports from the following individuals and committees will be given next:

- Executive Director
- Treasurer

**ADOPTION OF RESOLUTIONS.** The next Order of Business is the Report of the Resolutions Committee. The Resolutions Committee is a standing committee of the Association created by Article 9 of the Association's bylaws. The committee chair reports directly to the delegates rather than the Board of Directors. The Resolutions Committee is appointed by the president upon recommendation of the Area Directors. The committee has one member from each Association area and one representative from the Conference of Big 5 School Districts.

## VOTING DELEGATE'S GUIDE

The chair is designated by the President from among those appointed to the committee. In accordance with Robert's Rules of Order, once the chair moves adoption of a bylaw amendment or resolution recommended for adoption by the Resolutions Committee, no second is required.

Each recommended bylaw amendment will be debated and voted on separately. *Any amendment to the bylaws must have the approval of a two-thirds majority of those present and voting.* In accordance with Article 17 (2) of the bylaws, bylaw amendments may not be proposed or amended from the floor of the business meeting. Thus, all proposed bylaw amendments must be submitted by August 1 and all amendments to bylaw amendments must be mailed to each member board at least 30 days prior to the day of the Annual Business Meeting.

Following consideration of the recommended bylaw amendments, voting delegates are given the opportunity to move any of the "not recommended" bylaw amendments since the Resolutions Committee Chair will not move bylaw amendments that were not recommended. Each motion requires a second by a voting delegate from another school board.

After the bylaws are completed, the delegates turn to the proposed resolutions. The Resolutions Committee Chair first moves those existing NYSSBA positions that have been recommended for adoption. These previously approved resolutions are established NYSSBA positions that are scheduled to sunset if they are not renewed. Because these resolutions have been previously approved by voting delegates these resolutions are moved on consent (where several resolutions may be voted on en masse). Delegates may remove any resolution from the consent agenda simply by making a request at the time the resolution is called for consideration. No second or vote is required. Resolutions removed from the consent agenda are considered under the "Resolutions Recommended for Adoption" portion of the meeting.

After the consent agenda has been considered, delegates address newly recommended resolutions individually.

The Resolutions Committee Chair moves each resolution recommended for adoption by the committee. Each recommended resolution is presented and voted upon separately. The Resolutions Committee Chair will move those resolutions recommended by the committee for adoption; a second is not needed. *Resolutions require approval of a simple majority of those present and voting for passage.* Any resolution submitted to the Resolutions Committee may be amended from the floor. All information on how to offer amendments from the floor, as well as the length of debate, can be found in the Proposed Rules of Conduct on pages 35 and 36.

Following consideration of all of the resolutions recommended for adoption, the delegates may choose to consider any of the **resolutions not recommended** by the Resolutions Committee. To be considered by the delegates, a resolution that was not recommended must be moved by a voting delegate and seconded by a delegate from another school board. If a delegate plans to move a resolution that was not recommended, he or she should arrange for a delegate from another board to second the motion. This will ensure that the resolution is considered. If the resolution fails to receive a second, it will not be considered by the delegates.

**OTHER BUSINESS.** At the end of the Annual Business Meeting, the President will open the floor to Other Business. **Other business** may include a motion to suspend the rules for the purpose of considering a particular resolution submitted from the floor. This motion requires a second and a two-thirds majority vote of the delegates before the resolution may be considered. A two-thirds majority is required because this type of motion calls for suspending the bylaws. A motion to suspend the bylaws is required to be moved, seconded and adopted for each and every resolution submitted from the floor. Once the motion to suspend the bylaws is adopted, the new resolution can be moved and seconded, and a simple majority of those present and voting is all that is required to adopt a resolution proposed under **Other Business**. If the motion to suspend the bylaws fails, the resolution cannot be considered.