



LOWER HUDSON EDUCATION COALITION

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Memorandum of Opposition S.1039 (Jackson) / A.3748 (Pheffer-Amato) Weakens school district ability to address conduct and poor performance

On behalf of the Lower Hudson Education Coalition (LHEC), we are writing to express our opposition to S.1039 (Jackson)/A.3748 (Pheffer-Amato). While we recognize the importance of protecting employee rights and due process, this bill would have significant negative consequences that would impair the ability of superintendents, school boards, and administrators to effectively manage their districts.

Specifically, the legislation would significantly hinder the proper management of complex organizations by creating unnecessary obstacles and increased costs when it comes to terminating employees who perform poorly or engage in improper behavior. By imposing procedures like those applicable to teachers and administrators under section 3020-a of the Education Law, without requiring the same credibility determinations, the bill fails to provide an equitable framework for addressing employee misconduct. Further, under existing law, school boards and superintendents have the discretion to terminate or discipline employees after a fair hearing.

However, this proposal completely reverses the process by mandating a mutually selected hearing officer to make the determination. This change will lead to escalated litigation costs and prolonged hearings, as employees can exploit well-known delay tactics to prolong their employment, even when their termination is justified. In addition, the hearing officer is at liberty to recommend alternative penalties, which would allow underperforming and irresponsible employees to remain on the public payroll; potentially endangering students and other teachers.

The bill also requires employees to be paid during any suspension, unless the suspension is related to a guilty plea concerning illegal drugs. While current law permits suspension without pay for up to 30 days, with restored pay if the employee is cleared, the proposed legislation tilts the balance by mandating uninterrupted payment. This change would create an undue financial burden on school districts and public employers, compromising their ability to allocate resources effectively.

Finally, Section 3020-a of the Education Law currently grants significant due process protections to teachers and other school employees with professional certificates. However, these benefits are earned after four years of competent service, with superintendent recommendation and board of education approval for tenure. The proposed legislation, in contrast, would provide the same protections as tenured teachers after as little as six months of employment. This expedited process undermines the purpose of tenure and compromises the integrity of the system.

In conclusion, we strongly urge you to reconsider the proposed legislation considering the concerns outlined above. We believe it is crucial to strike a balance between protecting employee rights and ensuring that school district leaders and public officials can efficiently manage their organizations. We would be more than willing to engage in a constructive dialogue to explore alternative solutions that address these concerns while maintaining fairness and accountability in our education system.