



Dear LHEC Superintendents and Board Members:

As we head into the final month of the Legislative Session in Albany, the Lower Hudson Education Coalition (LHEC) Steering Committee is pleased to provide this update on the status of key education-related legislation. Based on feedback from school districts and LHEC Steering Committee, these issues have been identified as regional priorities, and include issues related to specific school districts in Dutchess, Putnam, Rockland and Westchester Counties.

The legislative session is scheduled to end on June 19<sup>th</sup> with June being the most active month for the Legislature in terms of bill passage. The Senate and Assembly typically pass over 1,000 bills through each house in the final days of session, which far outpaces voting in the other months. Ostroff Associates is closely monitoring these bills, engaging in regular conversation with legislators and staff regarding the LHEC position. Please support our efforts by sending [a VoterVoice e-letter](#) and sharing the link with your colleagues and other interested parties.

## **ISSUES WE ARE SUPPORTING:**

### ***School Buildings as Polling Places***

[S5287/ A4743](#) introduced by Senator Carlucci and Assemblymember Galef would provide school districts the flexibility to refuse or change a school's designation as a polling location by filing a written notice of cancellation within 30 days of receiving such designation, similar to the parameters provided to all other potential venues. Both members have indicated their desire to pass this legislation this year. [LHEC Memo of Support.](#)

### ***Time Allowed for Employees of Schools to Vote***

[S5314/ A7837](#) introduced by Senator Mayer and Assemblymember Benedetto seeks to address new provisions in the State budget bill that provide employees with three hours of time-off to vote. The proposed bill would revert to the language in prior law that limited this to school employees who do not have four consecutive hours between their work shift and the hours the polls are open. The current budget language could have a programmatic and fiscal impact on schools. Both sponsors have indicated that this legislation is a priority. [LHEC Memo of Support.](#)

### ***Industrial Development Agency (IDA) Reform***

Senator Skoufis, Chairman of the Senate Committee on Investigations and Government Operations, has proposed legislation to reform IDAs along with legislation introduced by Senator Mayer, [S4720/ A7576](#). These include provisions relating to increased school district participation and knowledge, and will likely result in a negotiated package.

### ***Increasing Annual Earnings Limitations for Retired Police Officers as SRO's***

Legislation is under consideration to increase the annual earnings limitations for retired police officers employed by a school district or BOCES as a School Resources Officer (SRO) or a substantially similar position. [S3-455/A2220](#) (Biaggi/Paulin) would raise the maximum annual earnings cap, while continuing to receive full retirement benefits, from \$30,000 to \$50,000, whereas [S4521/A7849](#) (Kaplan/Howley) would raise it to \$65,000. The current earnings cap can be a barrier to recruitment for these positions.

### ***Special Act School Districts***

Two bills introduced by Senator Mayer and Assemblymember Benedetto ([S5606/A8001](#) and [S5192/A7120](#)) would provide much needed relief to Special Act Districts. Specifically, S.5192 would authorize the Commissioner of the State Education Department to use interim plus rates for special act schools and is currently moving through the Senate. This would allow the special act districts to use this interim rate to fund current year expenditures rather than have their rate remain frozen while DOB and SED wade through the lengthy tuition rate-setting process.

### ***Building Aid Forgiveness (Spackenkill and Mahopac)***

[S1239A](#) (Serino)/ A4069 (Barrett) and [S4949](#) (Harckham)/A7129-A (Byrne) would provide building aid forgiveness for State aid withheld due to administrative filing errors for the Spackenkill and Mahopac school districts, respectively. The loss of these aid reimbursements can greatly impact a district and the students it serves, particularly given the revenue limitations under the tax cap.

### ***North Rockland - Mirant Tax Debt***

This issue relates to the Mirant Energy tax certiorari which left school district taxpayers with a \$365 million liability. As North Rockland continues to work with the State legislative delegation, we will continue to support their efforts and will advocate for any legislative solutions that may be proposed as part of an end of session legislative deal.

### ***Regional Cost Index (RCI) Study***

Assemblymember Galef and Senator Harckham propose legislation [S5528/A6702](#) that would direct the NYS Education Department to study, review and report on the placement of Westchester in the Hudson Valley region for purposes of public school foundation aid, and the appropriateness of placing the county in the Long Island/New York City region for such purposes. Similar bills were proposed in the past, and the timing is right for this type of review.

## **ISSUES WE ARE OPPOSING:**

### ***Article 75 Reform (Due Process)***

[S5205/A7624](#) introduced by Senator Gounardes and Assemblymember Abbate recently began moving in the Senate. This legislation, if enacted, would significantly change the current due process

protections for school employees in a way that would severely limit the local control of school districts.

Under current law, school districts have the critical ability to discipline or terminate an employee for poor performance or improper behavior, while providing substantial due process protections for employees. The proposed legislation would remove local control and would insert a “mutually” selected hearing officer who would be provided with decision-making authority. Additionally, this legislation would provide the hearing officer with the ability to recommend an alternative penalty, even if the employee is found guilty of misconduct and the district determines they should terminate the employee. [LHEC Memo in Opposition.](#)

### ***Administrative Tenure Credit***

[S4007A](#) would allow previously tenured principals, administrators, supervisors or other members of the supervising staff who have been appointed to their position by the Board of Education to be subject to a shortened probationary period (three years). This shortened probationary period would not apply to those who have been dismissed from their position in the past. This bill does not have an Assembly sponsor and was vetoed last year.

Unlike tenured teachers, previously tenured school administrators and supervisory staff never had a one year “credit” for prior tenure in another district. Furthermore, LHEC has expressed concern that while NYS administrator certification and tenure areas do not delineate between positions, the skills and evaluation parameters for different positions can vary greatly.

### ***Broadening the Definition of Public Work***

This proposed legislation has been a top priority for organized labor in Albany over the past several years. [S1947/ A1261](#) would broaden the definition of public work, requiring contractors to pay wages set by union contracts to workers on any project receiving state money. One provision of the bill that is especially concerning to school districts is the expanded definition of construction to include, but not be limited to, “demolition, reconstruction, excavation, rehabilitation, repair, installation, renovation, alteration, and custom fabrication.” Several LHEC members have raised the concern regarding this expanded definition of construction and the inclusion of school districts (which would conflict with other existing laws). By extension, this could include district maintenance and janitorial staff under the requirement to pay prevailing wage.

LHEC has engaged with the Governor’s office, the State Building Trades and with the Laborer’s union to remove the inclusion of school districts in this bill and are hopeful for a positive resolution as this bill moves forward.

### ***Bus Driver Disciplinary Agreements***

[S5707A/ A7998](#) introduced by Senator Mayer and Assembly member Benedetto causes great concern for our districts in Westchester and Putnam counties. This bill would require districts that need to discipline a driver or a driver’s assistant to abide by the collective bargaining agreement of that transportation company, except in limited instances. [LHEC Memo in Opposition.](#)

### ***Permitting Home-schooled Students to Participate in District Interscholastic Sports***

Legislation introduced [S5472A/ A706-A](#) by Senator Martinez and Assemblymember Stirpe would authorize boards of education to adopt district-wide policies that would allow home school students to participate in district interscholastic activities. There is concern about authorizing a school district to allow the a la carte use of public school facilities and offerings by those not enrolled in the district. In addition, many teams have caps, and this could deny opportunities for enrolled students. This bill also could cause issues similar to those faced by school boards that did not pass the Veteran's tax exemption for their district. [LHEC Memo in Opposition.](#)

### ***Substantial Equivalency for Private and Parochial Schools***

Under state law, local public school officials are responsible for ensuring that the education received by nonpublic school students is substantially equivalent to that received in district public schools.

In our May update, we highlighted the April 17th, 2019, NYS Supreme Court decision which struck down the "substantial equivalency" guidelines for private schools which were released by the State Education Department (SED) in November 2018. On [May 31st the State Education Department issued proposed regulations](#) to dictate "substantial equivalency" at nonpublic schools. The proposed regulations have been updated to include the following elements:

- Recommending that new schools be reviewed within three years of operation and that existing schools be reviewed by the end of the 2022-23 school year or as soon as practicable thereafter and regularly thereafter;
- Providing due process to nonpublic schools throughout substantial equivalency process;
- Focusing on providing instruction in subject areas required by law without including a reference to the state learning standards;
- Allowing for integrated curriculum that delivers content by incorporating more than one subject into the content of a course;
- Requiring LSAs to annually file a list of nonpublic schools subject to their review and Commissioner's review by Sep. 1, 2020 and each September 1 thereafter; and
- Requiring LSAs to file an annual update regarding the status of substantial equivalency reviews by Sep. 1, 2024 and each September 1 thereafter.

The proposed rulemaking will be published in the State Register on July 3 and the public comment period will run through Sep. 2. The Board of Regents is expected to consider the final regulations in the fall of 2019. The LHEC will provide further details in July, as school districts are encouraged to submit comments.

### **OTHER NEWS: NYS SENATE HEARING ON P-12 PUBLIC EDUCATION FUNDING**

Ostroff Associates attended the May 29<sup>th</sup> Senate hearing which focused on school funding, and included presentations by national experts on the current NYS school funding sources, alternative methods, and examples from other states. Please stay tuned, as this is the first of several hearings on school funding, equity, and foundation aid.

[CLICK HERE](#) to read Ostroff's bulleted notes from the Senate Hearing.