

To: The Honorable Members of the Board of Regents

From: NY Council of Administrators of Special Education

Date: March 14, 2016

Re: Proposed Amendments to Part 279 of Commissioner's Regulations.

We submit our comment regarding the proposed changes to regulations governing the practice and procedures governing the appeals of decisions issued by impartial hearing officers to the State Review Office of the State Education Department. Our organization represents over 172 members, including school administrators, directors, and other professional staff members who work with children and families in our schools. The proposed regulations involve the day to day practice before the state review office. As such, they would seem, at first glance, to have little, if any, effect on educators. We write, however to highlight their effect on our day to day functioning in schools and ask that you take our concerns into consideration.

It is well documented that schools and the professionals working there, face constant demands involving paper work, decision making, testing, personnel and most importantly the delivery of quality instruction for our students. Whatever those demands may be, the additional pressures we face as a result of hearings, appeals and litigation involving children with disabilities cannot be ignored. As those of us who have been involved in these proceedings can attest to, the quantity the time, energy and resources diverted from everyday demands is daunting. The time and attention we must pay to the preparation and service of verified pleadings on appeal is significant as well. While public schools are fortunate to have attorneys prepare our legal papers for filing, we are always called upon, to review, verify and often to effect personal service.

We therefore write to urge that you to take this opportunity to do everything you can to simplify the process involved in these appeals, and carefully consider the impact of a proposal that potentially shortens the time for responding to petitions, review and verification and service. The current regulations that provide ten days, instead of the proposed five business days to complete those tasks, place significant pressure on all of us involved. At the same time, we ask that you review options to personal service of petitions and the proposed additional notice required of Districts to personally serve and prepare a Notice to file an appeal. In regard to personal service on parents, we find the practice costly, time consuming, burdensome and in many instances intrusive and upsetting for the parents when handed legal papers at their door.

We are also very concerned that the proposed amendments would authorize the State Review Office to dismiss a district's appeal, refuse its papers and/ or find that the district denied a parent due process for failing to timely file with the Office the required record. While we assume that this proposal was introduced in response to problems in a few districts, the authority it grants to the State Review Office in all cases, without regard to the facts, or required prior written notice to the board, is daunting. Whatever the reasons may be, given the potential impact on school

boards, we urge, at a minimum, that a failure to file the record be addressed separately, through the Department, from the pending appeal.

While we are not in a position to weigh the effects of other changes in the proposed changes to Part 279 on schools and school boards, we ask that you review them carefully to ensure that any changes proposed take into full account their potential impact on our schools and others. Although we cannot speak for parents or their attorneys, we also presume that they would have similar concerns regarding the proposed changes in regulations. We therefore urge the Department to withdraw its proposal pending before the Board of Regents for approval to provide adequate time to review the proposal through the lens of those who appear before the State Review Office to obtain a review. Alternatively, we ask the Board of Regents to deny approval of the proposed regulations.

Thank you for your time and consideration.