

Resolution 2014-15: 514

By Member of the Board Commissioner Powell

WHEREAS, the Rochester City School District (the “District”) is party to a CONTRACT OF EMPLOYMENT FOR THE SUPERINTENDENT OF SCHOOLS OF THE ROCHESTER CITY SCHOOL DISTRICT (the “Superintendent’s Contract”) with Dr. Bolgen Vargas (the “Superintendent”) dated July 1, 2012, which, among other things, sets forth the duties and responsibilities of the Superintendent; and

WHEREAS, the Superintendent’s Contract provides that the “Board may from time to time modify or delete any duties or responsibilities of the Superintendent...”; and

WHEREAS, the Board, after due consideration, has determined that it is in the best interests of the District to so modify or delete certain duties or responsibilities of the Superintendent, in order to align such duties and responsibilities with the applicable provisions of the New York State Education Law;

NOW, THEREFORE, BE IT

RESOLVED, by the Board of Education of the Rochester City School District, that the Superintendent’s duties and responsibilities shall hereby be modified or deleted, as more fully set forth in the documentation on file with the Clerk of the Board of Education; and

BE IT FURTHER RESOLVED, that the Board hereby amends and revises the Rules and Regulations of the Board of Education Relating to the Superintendent’s Employment Group (the “SEG Rules”) in order to further implement the modifications to the Superintendent’s duties and responsibilities set forth herein and to align the SEG Rules with the provisions of the Education Law. The changes to the Rules and Regulations of the Board of Education Relating to the Superintendent’s Employment Group (the “SEG Rules”) are on file with the Clerk of the Board of Education; and

BE IT FURTHER RESOLVED, that this resolution shall take effect upon adoption, and shall supersede any previously adopted resolutions or Board actions to the contrary.

Seconded by Member of the Board Commissioner Adams
Adopted 7-0

Resolution 2014-15: 515

By Member of the Board Commissioner Cruz

WHEREAS, Sections 2554, 2566 and 2573 of the New York Education Law were amended in 1997 (the "1997 Amendments") to give the Superintendent of Schools of the Rochester City School District, under certain circumstances, the authority to appoint "...associate, assistant and district superintendents, and other supervising staff who are excluded from the right to bargain collectively pursuant to article fourteen of the civil service law ..."; and

WHEREAS, there were approximately 16 supervisory positions in the District that were within the scope of the 1997 Amendments at the time of adoption; however, the number of District employees that have been considered to be subject to the Superintendent's appointment authority and placed within what is known as the Superintendent's Employee Group has ballooned to 32 positions; and

WHEREAS, the Board of Education has determined, after considered review and consultation with legal counsel, that the placement of District employees within the Superintendent's Employee Group since the adoption of the 1997 Amendments has occurred in a manner that has exceeded the specific statutory scope of Education Law Sections 2554, 2566 and 2573, insofar as there are numerous job titles within the Superintendent's Employee Group beyond that of "associate, assistant and district superintendents and other supervising staff who are excluded from the right to bargain collectively...."; and

WHEREAS, in particular, it does not appear that the District has obtained a determination from the New York Public Employment Relations Board ("PERB") as to whether or not a particular job title is "excluded from the right to bargain collectively" prior to placing that title within the Superintendent's Employee Group, which is a condition precedent to such position being subject to the Superintendent's appointment authority pursuant to the above-referenced provisions of the Education Law; and

WHEREAS, the Board wishes to obtain such a determination from PERB in order to ensure that the positions currently placed within the Superintendent's Employee Group are aligned with the applicable standards set forth in the Education Law;

NOW, THEREFORE, BE IT

RESOLVED, that the Board hereby authorizes and directs Hodgson Russ LLP to prepare an application on the District's behalf and submit such application to PERB in order to obtain a determination as to which positions currently in the Superintendent's Employee Group are excluded from the right to bargain collectively pursuant to article fourteen of the New York Civil Service Law; and

BE IT FURTHER RESOLVED, that, upon receiving such a determination from PERB, the Board shall consider and determine which positions will be placed within the Superintendent's Employee Group, and therefore within the appointment power of the

Superintendent, consistent with the further standards and requirements set forth in Sections 2554, 2566 and 2573 of the New York Education Law; and

BE IT FURTHER RESOLVED, that this resolution shall take effect upon adoption, and shall supersede any previously adopted resolutions or Board actions to the contrary.

Seconded by Member of the Board Vice President Elliott
Adopted 7-0