

# SARATOGA HIGHLIGHTS!



## ZARB REPORT RECOMMENDS ELIMINATION OF TENURE

Last September, Governor Pataki handpicked a commission on education reform, and appointed former Wall Street executive Frank Zarb as its chairman. The Governor charged his group with determining how much state school assistance is necessary to fulfill the mandates of the Court of Appeals decision in the CFE case (Campaign for Fiscal Equity), in which NYC and other districts in need would be put on parity with the funding of other districts around the state.

The commission's 71 page report was delivered to the Governor at the beginning of April, and suggested a range of assistance that ranged from \$2.5 to \$5.6 billion, and recommended simplifying complicated state aid formulas.

In addition, the Zarb Commission called for the creation of an Office of Educational Accountability which would oversee three year district plans for improvement and the closing of schools which did not meet their goals. Closed schools would be replaced by new schools – including charter schools.

The Commission also recommended that **TENURE BE ABOLISHED FOR ALL PRINCIPALS AND ADMINISTRATORS AND REPLACED WITH 3-5 YEAR CONTRACTS**, and that 30-20A proceedings, as they now exist,

be replaced with a expedited process.

State Senator LaValle from Long Island has also proposed an administrative licensing bill that would require administrators and supervisors to be licensed periodically (perhaps every five years), and that this licensing be tied to employment contracts.

Under LaValle's proposal, there would then be – in effect – no permanent certificates or tenure, and administrators would be required to take continuing education credits to maintain their short term licenses.

Tony Laurino reports that another bill threatens to undermine administrators who are cleared of wrongdoing. Under a "Parent's Right To Know" provision, the records of any investigation into accusations of inappropriate behavior by an administrator can be made public – **EVEN IF THAT ADMINISTRATOR IS FOUND INNOCENT OF ALL CHARGES!**

The ESSAA Executive Board and our lobbyist Bob Unger will continue to monitor the situation in Albany. In order for recommendations such as these to be adopted, they must be proposed to and passed by both the Assembly and the Senate, and signed into law by the Governor.

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## ESSAA EXECUTIVE BOARD MEETS IN SARATOGA

On Friday evening, March 26, the ESSAA Executive Board held its meeting in Saratoga, with over 50 members from across the State participating. Much of the information Executive Board members received during the two days of reporting is presented in this April issue of *The Journal*. In photo below Bob Unger delivers his report. To his left are Tom Vasiloff and Joanne Keeler



# President's Message

## Your PAC Donations = Job Security

Dear Colleagues

Imagine this. Your Board of Education has finally realized your worth to the school district and acted upon the recommendation of your Superintendent of Schools to give you a nice bonus and a substantial raise. You can now afford to live in that fancy new gated community on the other side of town. All is right with your world. You are safe and secure in your new community with the roving security force and the friendly guard at the gate who greets you in the AM & PM, screens and announces your visitors, and interrogates the FED EX driver before admitting him to the inner grounds.



One morning you wake up, dress for work, and enter the attached garage where your new Mercedes is parked. But the garage is empty! Your car is missing. It has been stolen from a place that you assumed to be secure. Certainly, you want your property returned and the perpetrators punished. But the underlining question is hanging in the air: how did this happen and how could it have been prevented? Obviously, hindsight is always 20/20, and certainly the theft could have been prevented if you had only realized that you had been under a real threat, as opposed to a hypothetical one. This letter addresses the real threat to your job security!

Like your new Mercedes, TENURE is also a substantial piece of your personal property. In fact, in this day and age with the anti-public education atmosphere that we are all subjected to, it may well be the reason why your other personal possessions, including your car and home, are more secure. Tenure offers us the well deserved security of an educational gated community, and enables us to do a better job in protecting the children we have devoted our lives to serving. It is the one protection we have against the irrationality of some school boards and the vindictiveness of some superintendents, and it is our insurance policy against harassment and termination without due cause and process. Tenure is "property" that we have earned and is of great value to all we serve.

Each year there are efforts to take TENURE - our property - away from us. Sometimes the threat is significant, sometimes it is not. Certainly, the elimination of TENURE has been on the front burner of George Pataki's stove for as long as he has been Governor. So it should not come as a surprise to any of us that the Governor is once again proposing the "elimination of tenure for administrators" as part of this year's Zarb report on school funding.

The Governor is a frequent visitor to New York City. Too bad he hasn't had a chance to take a look at the NYC school system since tenure was eliminated for principals several years ago. Elimination of tenure has not only failed to help solve the City's educational problems, but it has added to them. Does the Governor want us all to become like New York City? The last time I checked there was an administrative exodus there that would have even given Moses cause for concern. The City now needs to solicit teachers from foreign countries to fill existing vacancies caused by the difficult working conditions that have been exacerbated by the loss of tenure for principals there. At the rate the City is going, it will soon be looking to Europe to find teachers and administrators to fill vacancies that cannot be filled from within this country. In what language should we teach English, Mr. Governor?

This letter is meant to be a wake up call. We have a problem that has to be addressed. There doesn't seem to be a great deal of legislative support for the Governor's proposal at the present time, but this situation can change quickly and must be closely monitored. We must be ready to protect our property if it becomes necessary to do so. In the legislative lull before what might become a significant storm, public school supervisors and administrators across the state should learn who their state legislative representatives are in both the Assembly and Senate.

It may become necessary to call or write your representatives regarding your opposition to the Governor's proposal if it gets that far. If you do not know who your representatives are, call or write our Lobbyist, Robert Ungar, 595 Stewart Avenue, Garden City, NY 11530 Phone 516-227-2400 Fax 516-227-2406 and give him your address. His office will be able to tell you the names of your representatives.

The second part of our defense plan is longer in term. Our membership must be more attentive in contributing to the ESSAA PAC Fund. Moneys collected are used to help fund the election efforts of our supporters in Albany. Campaigns are expensive to finance and candidates need all the help they can get. We have to be there to help them in a more substantial way than we have in the past, if we expect them to be there for us.

Unlike many of our colleagues in other professionals, (teachers, civil service etc.) school administrators and supervisors are very slow to contribute. When the time comes for ESSAA to protect our members, we don't want the ESSAA PAC Fund to continue to come up short. Our PAC Committee has requested a \$50 - \$100 dollar donation from each of you, but your response has been significantly less. Some members do not contribute at all. This must change. If our profession is to survive as we know it, all members must get on board with PAC.

How do we prevent the theft of our tenure? The answer for now is relatively simple; First, know who your legislatures are and plan to contact them by phone and/or mail if our lobbyist tells us to do so. Second, dig deeper into your pockets and contribute to the ESSAAPAC Fund. It is the cheapest type of job insurance you can buy. When you consider the high stakes involved in this battle, a letter and a few dollars is not much of a price to pay.

Very truly yours,

A handwritten signature in blue ink that reads "John F. Sullivan".

John F. Sullivan

Send your PAC Fund Contribution to:

ESSAA PAC FUND  
PO BOX 187  
Eastchester, NY 10709

# ESSAA CELEBRATES ITS MEMBERS

## MACCHIA SCHOOL "MOST IMPROVED" IN BOTH MATH AND ENGLISH IN WESTCHESTER COUNTY: REGENT VISITS PORT CHESTER CLASSROOMS

Carmine Macchia, the principal of Port Chester Middle School, has a lot to be proud of. In January, Carmine, President of the Port Chester Administrators and Supervisor's Association, was reelected Secretary of RASA, ESSAA's Westchester/ Putnam affiliate.

Then, in March, came two pieces of good news. First, his Association negotiated and signed a solid new contract with the Port Chester Schools, and second: his own school – the Port Chester Middle School - was named to the state's "most improved" list for improved scores in BOTH Math and English – the only one to be so named this year in Westchester County.

Then, just a few days later, James Kadamus, a member of the New York State Board of Regents showed up for a first hand look at all the good things that were getting done in Carmine Macchia's school. Kadamus visited English, Math, and Science classrooms, and understood why Port Chester Middle School had

raised its scores by at least 20 percentage points from 1999 to 2003 – the minimum necessary to be named one of New York's "most improved" schools.

In an interview with Alison Bert, a reporter for *The Journal News*, Carmine said, "The key is that English language arts skills are taught across the curriculum – in science, social studies, math, art, and music."

Carmine Macchia came to Port Chester after a far ranging and exciting career. He had been a principal in Somers, NY and Athens, Greece. He taught Social Studies in Italy, Virginia, New York City, and in Carmel, New York. He is an educator dedicated to high standards and making the needs of his students his top priority – and he is the secretary of RASA.

Congratulations and the very best to Carmine Macchia and his students at Port Chester Middle School!

## GEORGE C. ALBANO, SUCCESSFUL MT. VERNON PRINCIPAL, FEATURED IN KAPPAN

These days, George Albano's elementary school is riding high: 99% of Lincoln Elementary School's fourth graders have scored above the "bar" set by New York State. Of the 800 students in his school, only three didn't pass the test, but Albano and his teachers haven't given up on them.

The 58 year old Albano – a younger brother of wrestling promoter Lou Albano – has been principal of Lincoln for 25 years, where most of his 70 teachers have taught for at least 15 years. And it may be this teamwork that helps make Albano's school the envy of other inner city schools.

The success of Albano and his 60% Black and Hispanic, 38% White, and 2% Asian student population was recently featured in February's edition of *Kappan*, the prestigious journal of Phi Delta Kappa, the professional organization for distinguished educators. The article, written by John Merrow, an education correspondent for the "NewsHour With Jim Lehrer," reveals the "secrets" that Albano has discovered over his long career, in shrinking the often cited "achievement gap."

Albano's message is one of professional collaboration and student support, and according to author Merrow who interviewed the teachers at Albano's school, it involves the following approaches:

- Don't give up on any student
- Avoid being punitive
- Always praise an individual student's success
- Let students know that you care about what they are doing right
- Professionals should share approaches that worked in the past for an individual student
- Never embarrass any child
- Always show respect

Above all, Albano, called "Superman" by the faculty, does not suffer from (as Merrow terms it) "the bigotry of low expectations"; Albano says, "Color blindness is simple" when all children are successful.

To ensure this success, Albano defers to teachers' knowledge of individual students and their expertise in particular subjects.

According to *Kappan*, teachers feel empowered at Albano's school; students feel their needs attended to, and the "performance gap" – if it ever did exist – has disappeared.

**Next ESSAA Executive Board Meeting,  
May 21, White Plains, N.Y.**



## Editor's Message: SCHOOL HOUSE COMMERCIALISM

Departments of Education on both State and national levels continue to see privatization as a promising alternative to the public schools. Last year the US Department of Education provided \$200 million to help charter schools funding, and this year it is expected the figure will be increased to \$300 million. Even so, studies are showing that the 10 year old Charter Schools

movement has resulted in little or no improvement in student performance, and is virtually impossible to run for profit.

Teachers College charter school researcher Prof. Amy Stuart Wells has commented on another stumbling block: There are a limited number of people with the knowledge and experience to educate children, the business acumen to keep an autonomous institution running, the political connections to raise the private funds needed to keep school afloat, and the ability to forsake virtually all of their personal life in order to work 6 or 7 days a week for 12 to 14 hours a day.

Ms. Wells sums up the current state of affairs by saying that, by promoting competition, charter schools were supposed to make public schools "more accountable for student outcomes ... more efficient – it just really hasn't panned out."

Ms. Wells has eloquently stated the problem, and *The Journal* is going to send her a complimentary copy of this issue to thank her.

But what any ESSAA member reading this must immediately see, is that the people Ms. Wells describes do exist and have been hard at work in schools that do succeed – they are the administrators and teachers of the public schools of America.

It's unfortunate that the great general success of America's public school system is intentionally ignored or belittled by privatization advocates only so that Harvard MBAs can dabble around in education, and try to make a killing. The irony here is that the taxpayers of America - including its public school teachers and administrators - are paying for it.

*The Journal* thinks it is important that ESSAA members be more educated about our "competition" - the charter school

movement – especially in this election year, and our investigation into the current situation is meant to do just that.

### We clearly stated our position in the Winter 2004 issue:

The charter schools movement is a national and state attempt to undermine public education. We urge the Commissioner and the legislature to hold charter schools to the same high standards and requirements as the public schools.

NCLB and the charter schools movement are the backdoors to privatizing education: a union-buster's dream which promises maximized profits for management and shareholders using taxpayer money, and a virtual pass on the standard protections of hard-won labor laws.

But privatization is apparently not working as its backers had hoped. We in public education tried to tell them it wouldn't work, but they didn't listen. Instead, *their* special interests declared that *our* special interests were blocking them. The difference is that *our* special interests knew what we were talking about.

We don't expect charter schools to disappear any time in the near future; we do expect them to diversify instead. The Edison schools, for example, are offering school districts their "skill" in managing extra-curricular and summer school programs.

Corporate interests wanted an educational system in which the schools are cleaned by faith-based Service Master, where the students are fed by budget-conscious ARA, where the teachers drink water dispensed by Coca Cola, where the athletic teams wear logos of local business on their backs, and where a "manager" is in the Principal's Office focusing on how to squeeze an extra nickel out of what is left of the public pot for his own personal profit.

They wanted it, they bought the right politicians, but now they are finding they can't turn a profit.

The business of American education is too important to be left to businessmen.

*Bob Liftig*

Editor

*The Journal*, and Regionals

## BELIEVE IT OR NOT: FLORIDA PENSION FUND BUYS EDISON SCHOOLS

*It wasn't that many months ago when the stock of Edison Schools the for-profit company created in 1992 had sunk to 14 cents a share from a high of \$21.68. The company, which had already lost \$300 million, was running 20 schools in Philadelphia, and the City of Brotherly Love was so disgusted with its performance, that it refused to pay Edison the \$4 million it owed them...*

### OK, kids, now complete this story ...

You probably expect this story to take a dramatic turn - and it does – but not the direction you might expect it to. This story doesn't end with Edison turning a big profit. And it doesn't end with Edison receiving the Nobel Prize for turning around the lives of 200,000 schoolchildren in Philadelphia.

The story ends, kids, with the State of Florida's Pension Plan bailing Edison out by purchasing Edison Schools in February for \$182 million. And as part of the deal, the public employees of Florida have agreed to retain Chris Whittle, the Founder, as CEO with a \$28.6 million 5 year contract, with the possibility of a 275 per cent bonus if the company ever does turn a profit!

Edison, which had once been sued by its own stockholders over accounting issues, claims it is the nation's largest for-profit school management company, but it lost \$25 million in fiscal year 2003, and \$86 million in 2002. Clive Belfield the assistant director of Teachers College's National Center for the Study of Privatization in Education, has called the Edison bailout a "strange financial move."

# PAIGE-INATIONS

## TURNING THE PAIGE

With Democratic candidates calling for the repeal of No Child Left Behind legislation, and Republican legislatures such as Virginia's openly complaining about the act's lack of funding, Ron Paige's Department of Education centerpiece for educational reform is clearly facing a stormy future.

Invitations to join local citizen groups in order to take action against NCLB are flooding the Internet. A recent one in Connecticut was extended to "All Principals, Central Office Members, and BOE Members" and stated that "The purpose of the meetings is to galvanize support from the community-at-large in seeking meaningful changes to the law including meeting the commitment to fully fund the law."

Public resistance to NCLB is obviously taking its toll on Secretary of Education Ron Paige who recently admitted to calling the National Education Association a "terrorist organization." Paige previously blamed "unions, teachers, civil libertarians, liberal politicians, and education advocates" for their opposition, saying that "it is about power, politics, and pride, not in the best interests of our children." (see Winter Journal).

The Republican controlled House of Delegates in Virginia recently passed a resolution by a vote of 98-1 saying that NCLB "represents the most sweeping intrusions into state and local control of education in the history of the United States," and criticized it for costing "literally millions of dollars that Virginia does not have." House Chairman R. Steven Landes (R – Augusta) said, "I'm all in favor of accountability and higher standards, but Virginia already has a system in place."

In Ohio, a Republican legislative initiative commissioned a study which found that the Federal government had significantly underfunded NCLB, and in North Dakota, a Democratic – backed resolution was passed by both the Republican controlled House and Senate decrying the "cost to states." Utah is considering legislation to opt out of NCLB completely.

With the November election less than 8 months away, educators around the country are justified in wondering what the end result will be. With so many objecting to so much, it is just possible that NCLB could be "relegated to the dust bin of history," where so many Americans are already wishing it would be.

– RAL

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## ROD PAIGE MAY THINK YOU'RE A TERRORIST, BUT DO YOU WANT TO JOIN MOVEON TO GET RID OF HIM?

As our Journal readers know, Secretary of Education Rod Paige has thrown a series of hissy fits lately in which he blames education associations for not being enthusiastic about NCLB. He's gone so far as to call the NEA a "terrorist organization," but then – when a congressman blew the whistle on him – he began to apologize to any one and every one so often and so profusely that most of us were relieved when he stopped.

Obviously, Secretary Paige seems more interested in setting up a fall guy for the failures of his educational policy, than he is eager to understand why so many knowledgeable educators condemn these policies. You may even feel that it's high time that Paige should be removed

### BUT ...

There is a petition circulating on the Internet which seeks both the removal of Secretary Paige and the signatures of teachers and administrators. It is sponsored by MoveOn, which describes itself in the following way:

**The MoveOn family of organizations consists of three entities. MoveOn.org, a 501(c)(4) organization, primarily focuses on education and advocacy of important national issues. MoveOn.org PAC, a federal PAC, primarily helps members elect candidates who reflect our values. And MoveOn.org Voter Fund, a 527 organization, primarily runs ads exposing President Bush's failed policies in key "battleground" states.**

The petition and MoveOn itself may be both the exact message and messenger you are looking for, and, if so, it's your duty as an American to sign on.

On the other hand, you may first want to consider what our quick Internet search turned up about the organization before you – in effect - decide to join them.

MoveOn, by its own description, started in 1998 as an online petition system to censure President Clinton. It became one of the

first PACS, and claims to have raised more than \$1.7 million for 29 Democratic candidates from over 40,000 individuals. MoveOn claims this was the first time the Internet was used to raise a six figure contribution. During the impeachment crisis, its online petition drive attracted over 500,000 signatories in just a few days.

The columnist Michael Cornfield, writing in *Bandwagon*, said of the Silicon Valley couple – the Blades - who started MoveOn, "Last December, at a Harvard University conference on online politics, Joan Blades held forth on her vision of the Internet. She spoke about returning power to ordinary citizens, moving politics beyond confrontation and the glories of community. It struck some of us in attendance as fuzzy-wuzzy. When she finished speaking, Rich Galen of (the fund raising organization) GOPAC cracked, "Kumbaya.org," and the back of the room collapsed in laughter."

MoveOn is also described by the *Washington Post* as "one of the largest anti-war groups," and it organized another petition drive when the US invaded Iraq. The declaration it asked its petitioners to sign read: "As a US-led invasion of Iraq begins, we, the undersigned citizens of many countries, reaffirm our commitment to addressing international conflicts through the rule of law and the United Nations ..."

As pioneers of the "protest without leaving home" movement, it also held a "Virtual March on Washington" by swamping Senate and White House switchboards with messages opposing military action. "Win Without War" – a coalition of 32 organizations including MoveOn – claimed that over 40,000 people registered to participate in the call-in campaign.

ESSAA members should also know that MoveOn has begun running anti-Bush campaign ads on cable TV channels. This organization has other, more ambitious agendas, than simply getting rid of the Secretary of Education.

– RAL

# ESSAA — AROUND THE STATE

## SPOTLIGHT ON WAVERLY: SMALL SOUTHERN TIER SYSTEM JOINS ESSAA'S FAMILY OF FULL SERVICE DISTRICTS

With only eight administrators, it might seem as if the Waverly Schools would not be a prime target for ESSAA recruitment, but, with ESSAA's philosophy being to offer full legal and professional services to districts throughout the state, our organization is proud to welcome them into our family.

Located in scenic Tioga County, the Village of Waverly consists of 2.26 square miles within the Town of Barton, and is the largest village in a county whose population barely exceeds 4,600. The Village is proud of its handsomely restored houses. People seem to move to Waverly to stay; the mean travel time to work is only 19.4 minutes, and unemployment is only 5.7%.

It is also a geographical curiosity. Waverly is a "border town" a few times over. First, it is on the border of Pennsylvania, its main artery, Broad Street, being only 1.9 miles from its sister city in the Quaker State, Sayre, PA. Second, it is at the southwestern border of Tioga County, which itself borders Chemung County to the west. Finally, it describes itself as being near enough to the Finger Lakes District to be a bordering tourist center.

Its largest employer - the Leprino Cheese Factory - also straddles the border, and is located half in New York and half in Pennsylvania. Leprino provides most of the mozzarella cheese for pizza chains east of the Mississippi.

Waverly region offers many cultural and recreational activities: a strawberry festival, farm tours, kayaking, fishing for muskellunge in the Susquehanna River, cross country skiing, a fully restored historic railroad, and golf.

The Waverly Central School District enrolls 538 students at the Elm Street K-6 facility, 320 students at its Lincoln Street K-6 school, and 828 students in grades 7-12.

It's also not far from well-known community colleges and universities. Cornell and Ithaca College are 31 miles away; SUNY Binghamton about 46, and Broome Community and Corning Community about 46 miles and 37 respectively.

The eight administrators of Waverly now belong to ESSAA - the full service professional association that does not believe size matters when it comes to protecting the rights of its members.

### Welcome to ESSAA, Waverly.

In addition to Waverly, we also welcome Putnam Valley S.D. in Putnam County, Minisink Valley S.D. and Greenwood Lake S.D. in Orange Co., and Bedford and Blindbrook school districts in Westchester County. The primary reason given by new members for their decision to join ESSAA is our outstanding legal services and our strong support in negotiations.

## EARLY RETIREMENT INCENTIVE "NOT A REALISTIC WHISPER"

Despite rumors to the contrary, there seems to be no movement toward a State sponsored early retirement incentive. There is no money for it, and no urgency to find it on the Governor's side. Neither the Governor nor Mayor Bloomberg need to "clear their payrolls," though, of course, potential retirees are always hoping they do.

There are a number of "Same As" retirement bills in front of the Senate and Assembly, however. One would give retirement system credit for prior service in areas of special student education. Another would offer unreduced benefits to any member with 20 years experience. And a third bill would offer up to 10 years retirement credit for VISA, Head Start, or Peace Corps service. A fourth bill would give credit for private elementary, secondary, or university service, and a fifth would provide credit in these areas for out of state service.

## RASA PLANS ROUNDTABLES, WORKSHOPS

RASA's new officers are already planning Roundtable discussions around Westchester/ Putnam; as RASA expands it wants to maintain and improve communication between the officers and the growing membership. In addition to the Roundtable, RASA plans to offer negotiation workshops in early November, and a New Leadership Workshop for those administrators who have recently been elected to their local administrator's association. Registration will be open to all RASA members. Look for more information in *the Journal*, and in the Westchester/ Putnam Regional in the coming months.

## CNYSAA LINKS UP WITH SYRACUSE U.

By Tom Vasiloff

Tom Vasiloff reports that he had a very productive dinner meeting with Scott Shablak (Assistant Director, Office of Professional Development) from Syracuse University. Pam Quigley (Central New York State Administrators Association Regional Representative) and Tom Vasiloff (ESSAA Vice-President) will be working with Scott this spring to plan a state-wide workshop co-sponsored by CNYSAA/ ESSAA and Syracuse University.

The target date will be the last week in September or the 1st week in October. CNYSAA is planning an all-day workshop (8 am-2pm) and is considering topics such as: legal, lobbying and negotiating topics, administrative leadership, and grant writing. If you have ideas, suggestions, comments, please do not hesitate to forward them at your earliest convenience to:

Tom Vasiloff  
Assistant Principal  
East Syracuse Central High School  
5400 Fremont Rd.  
East Syracuse, NY 13057

# CHARTER SCHOOLS REPORT

## REPORTS NOTE EXPANSION, BUT LITTLE EDUCATIONAL PROGRESS

By: Bob Liftig

In its Policy Update, the National Association of State Boards of Education makes a special effort to address what it calls “Commercialism In Schools.” Tracing the privatization movement back ten years or more, the NASBE cites the “lightening rod” for the movement’s emergence as the Channel One television network which “airs instructional programming and commercial advertising in high schools across the country.”

From this modest beginning, the movement has grown to encompass everything from charter schools to the “cola wars,” a “phenomena where school districts bargain for franchises to garner the highest-paying exclusive marketing rights contracts” for vending machines that will return money to local school districts.

According to the White Plains based Westchester Institute for Human Services Research, there are now 500 charter schools in 35 states. The Institute - simply enough -defines charter schools as “independent public schools created through a formal agreement between a group of individuals, such as teachers or parents, and a sponsor, usually a local school board or state department.”

The Westchester Institute for Human Services Research has authored “The Balanced View: Charter Schools,” which is nothing less than an unbalanced testimonial to the wonders of the charter school movement (of which, apparently, the Institute has proudly joined in using its site to advertise the successes of its Work To School Program). **A major attraction of charter schools, according to The Balanced View, is that they “are freed from most state codes and local policies regarding curriculum, instruction, budget, and personnel.”**

The Institute describes charters as having at least two lofty goals. The first is “to provide parents and those ‘closest to the classroom’ with the flexibility to pursue innovative teaching methods that will improve student performance.” The results, so far, are lackluster at best. Its second goal is “to challenge other public schools to raise their standards and become more responsive to what parents and students need from public education.”

Despite the glossy promises of the charter school movement, a number of recent comprehensive studies conclude that for-profit charter schools neither make profits nor significantly improve student performance.

In February Arizona State University’s Education Policy Studies Laboratory released its annual Profiles of For-Profit Education Management Companies report, a snapshot of the current state of charter schools throughout the nation.

The report says that for-profit management continues to grow in the U.S.; 81 per cent of for-profit schools (375) are identified as charter schools, up from 74 percent last year. 81 percent of these are “large EMOs” – defined as entities which operate 10 or more schools. These are currently “educating” 89 per cent of for-profit students.

Large EMOs averaged 521 students per school, while those classified as medium averaged 229, and small, 265. 63 EMO managed schools closed last year; 68 per cent of them were run by either Edison Schools or another large EMO, Chancellor-Beacon.

The Arizona State University report cited Arizona and Michigan as states having the most permissive charter school laws, and they – not coincidentally – also have the most schools under EMO management – almost half of the total.

Under a headline that reads “Virtual Schools: Virtually No Accountability,” ASU’s press release ([asu.edu/asunews/research/forprofitcharter](http://asu.edu/asunews/research/forprofitcharter)) discusses the development of Virtual Charter Schools - “schools in which instruction is delivered primarily via the Internet and with little or no contact with certified teachers.” The ASU report

states that these schools “operate with virtually no accountability to the states that fund them.”

The director of ASU’s Education Policy Studies Laboratory summarizes the state of the charter schools movement today in rather dramatic terms when he reports that:

**“The evidence thus far is insufficient to demonstrate that for-profit management increases the quality of education or that private management companies can profitably manage schools.”**

Writing for the International Journal of Entrepreneurs in Education, Henry M. Levin notes the emergence of EMOs which seek to manage public schools on a contract basis. Levin defines these entities: “in exchange for a per-student fee, they will manage both the logistical and instructional aspects of the school.” Levin then analyzes these schools by their ability to generate profit, and for their promise to improve education and initiate reform.

Levin notes that EMOs have run into unexpected difficulties. First, is the unexpectedly high cost of operating their central offices; then, there is the expense and challenge of marketing, and finally, there is the high cancellation rate by school districts after their contracts expire. He concludes:

**“On the basis of existing evidence, we have not yet seen substantial innovation in instruction by for-profit EMOs, although we have seen some logistical advantages in school organization. The data on educational outcomes is also mixed.”**

In an interview with a Dr. Wittrock of the Institute for the Study of Educational Entrepreneurship, Levin was asked why there has not been more innovation in curriculum and instructional practices, as the charter school has movement promised.

Levin speculated that both EMOs in particular, and charter schools in general, must respond to the parents who have selected them and that these parents want “more direct instruction and basic skills curricula.” In addition, these alternative schools seem to focus more on business than instructional practices.

As to the second goal of charter schools – that of effecting change in standard public schools – Levin was equally discouraged, saying he “had completed a study with Clive Belfield on the effect of competition on the public school system,” and found that “there is a modest effect when there are more choices, but that effect is still quite small.”

At the end of the interview, Levin was asked about the overall ability of these schools both to save money and raise student performance. Levin responded that it has been difficult, if not impossible, for him to get accurate data, and he used Victory Schools as an example. The only information on their performance provided to him, Levin said, was their advertising materials and internet site which “of course, claimed that student test scores are increasing tremendously.”

Even so, charter school managers such as Edison Schools Inc. and Shackleton, probably shouldn’t worry about dismal studies such as these, as school systems across the nation continue to see a “better alternative” in their inflated promises.

In Lake Wales, Florida, for example, the Chamber of Commerce is hoping to convert all eight public schools into charter schools. Polk County, where Lake Wales is located, already has more charter schools morphed from public schools than in any other Florida county.

In our own area, the march toward privatization is being expanded in New Hampshire, Connecticut, and Maryland, and the first charter school in Westchester County is slated for opening in Yonkers.

# CHARTER SCHOOLS REPORT

## OH, WHAT A TANGLED WEB THEY WEAVE

By: Bob Liftig

For all their idealistic claims, for-profit and non-profit privatized school advocates also brag that their expertise in the “real world” uniquely qualifies them to answer the challenges of educating American students – and particularly those students from the inner city where charter schools proliferate.

Who are these people? Where were they educated? What sort of background in teaching or administration do they have? With what other ventures are they now or have they been involved? A look at some of the heavy hitters of Victory Schools – which will soon open a school in Yonkers is instructive:

**Steven B. Klinsky** – Founder and CEO - “highly respected businessman and education reformer.”\* Harvard Law, Harvard MBA, created the Gary Klinsky Children Centers, an “innovative after school program in New York City’s most disadvantaged public schools.” In 1997 he helped the Miami Heat create its own version of his program as its team charity. He served as major shareholder in General Semiconductor Inc., The Thompson Minwax Corp., and the Yankee Candle Co.

**Ethel Adu**, Operations Associate. She is a 2001 graduate of Lincoln University, and previously worked in the legal and finance department at Salomon Smith Barney. She is presently pursuing an MBA at Keller Graduate School of Management.

**Roxanne Greco-Ashely** – Principal, Roosevelt Children’s Academy, with 20 years experience as “an educator.” She was an elementary principal for 14 years and “can’t imagine doing anything else.” She “grew up in the private business sector assisting her family in opening motels, restaurants, and commissaries before going into education.” Greco-Ashely holds a Masters in Educational Administration from Washburn University.

**Carly Schiattarella**, Director of Development, has “a decade of experience in public education reform and the charter schools movement,” and previously worked for Edison Schools where “he helped start up and manage over 50 district partnership schools and charter schools in 10 states ... gaining valuable insight and knowledge of the budgeting process...” He once worked for the NYC Council.

**Marc Sternberg** – Vice President. Former elementary school teacher and Teach For America volunteer who “implemented an innovative curriculum model and demonstrated outstanding success in raising his students’ scores in reading and math.” He founded Community of Scholars, a non-profit organization “committed to developing and managing after school and summer enrichment opportunities in the South Bronx.”

It would be hard to argue that any of these people are not “connected” -but to what and whom, is the question.

Take Marc Sternberg, for example, who sits on the Alumni Advisory Board of the Social Enterprise Club ([socialenterpriseclub.org](http://socialenterpriseclub.org)) with 16 others. The Club, which is connected directly to the Harvard Business School, describes itself as an organization

which “works to bring social enterprise issues into the mainstream, and give interested students the opportunity to meet leaders from the public sectors.” It also describes itself as “interested in the intersection of non-profit, business and government,” and says it works closely with Harvard’s Initiative on Curriculum Development.

The 17 Alumni Advisory Board members boast recent Harvard MBAs, as well as connections to investing firms, “equity” groups, and “foundations” of various types. The Chair of the Board is David Dechman, a self described “Former Partner of Goldman Sachs.” The Director of MBA Admissions and Financial Aid for Harvard, Brit Dewey, is also listed.

A recent event held in Harvard’s “Spangler Room” was the Victory Schools Luncheon – described as a “for profit EMO (Education Management Organization) which offers “internships and full time positions.”

Then there’s member Luke O’Neill, the CEO and Founder of Shackleton Schools, Inc. ([shackleton.org](http://shackleton.org)) which describes itself as a “non-profit, tax-exempt 501(c) (3) educational organization incorporated in the Commonwealth of Massachusetts.”

Shackleton proudly announces on its website that it “admits students of every race to all rights, privileges, programs, and activities,” and asks whomever wishes to contact its administrative headquarters (which they call “Basecamp”) to: “Imagine a high school where your classroom is a sailboat on the ocean, a homeless shelter, a senate hearing, or a sky full of stars.”

Shackleton says that its classroom instruction is different from regular instruction because it is “connected to the real world, where service and wilderness travel are vital parts of your education.” Photos of old clipper ships, cheerful student backpackers, and a large group of very white and very suburban-looking teenagers posing in front of a brightly painted camper entice prospective students.

There is another for-profit option that is being touted: the emerging “mainschooling” movement of charter schools in California. The Institute for the Study of Educational Entrepreneurship reports: “Mainschool charter schools in California are making tremendous amounts of profit – somewhere in the tens of millions of dollars”. Mainschooling promises a “value-based education,” which offers “some real profit opportunities.”

For other information about raking in private dollars from public education, you may want to visit the website of the Commercialism in Education Research Unit (CERU), an organization which “is the only national academic research center dedicated to schoolhouse commercialism.”

If you want more, go to: <http://educationanalysis.org/>.

\* **Biographical information is taken from the Victory Schools website: [victoryschools.org](http://victoryschools.org).**

**Check out ESSAA’s Revised website at: [www.ESSAA.org](http://www.ESSAA.org)  
and see the great work Joanna Keeler’s been doing!**

# REPORTS FROM SARATOGA

## ED. COMMITTEE WILL DEVELOP POSITION STATEMENTS

Evan Powderly, Chair of the Education Committee reports that there is a pressing need to develop position statements that can be published in *The Journal*, in Regionals, and in email updates, to serve as resources for administrators, so that our members can “speak in one voice.” Position statements will also help educate members who are new to the issues ESSAA often addresses, and will also develop a better working relationship with the State Education Department.

Janet Mulvey, PAC Chair, and Joanna Keeler, Technology Coordinator, and Bob Ungar, ESSAA lobbyist, will be better able to direct PAC resources and get our message heard among legislators, and to communicate our positions to members on the ESSAA WEB site.

ESSAA membership will be better informed about current issues in education, such as NCLB, Charter Schools, bills before the legislature, and health and safety legislation.

## MEDICARE BILL MAY REDUCE RETIREE BENEFITS

By Bob Liftig

The Medicare Amendments passed in November, 2003 may pose a threat to members who negotiated prescription insurance programs as part of their retirement packages.

According to The Washington Post (11/20/04) the 400,000 member National Association of Retired Federal Employees, refused to endorse the legislation, and voiced their concerns to legislators before its passage that the Medicare overhaul “could lead to a reduction or elimination of drug coverage provided by employer-sponsored plans ...”

The President of NARFE, Charles L. Fallis, told senators and congressmen that, “While we support adding drug coverage to Medicare, NARFE believes that the conference agreement could undermine traditional Medicare. In addition, our members oppose the introduction of ‘means tested’ premiums and the expansion of costly medical savings accounts.”

“Health Savings Accounts,” another provision of the Medicare Amendment, allow Medicare participants to roll over unspent insurance dollars from year to year. Fallis believes that the accounts will only attract healthier enrollees and may force traditional plans to raise their premiums because they would be left with a higher share of those who are in poor health.

There are legislators who want to save retirees from losing their lawfully negotiated benefits. Rep. Thomas Davis III (R-Va), who is chairman of the House Government Reform Committee, will continue to work for the adoption of his stand-alone Davis bill that was approved by the House last July. Sen. Daniel Akaka (D-Hawaii) introduced a similar bill in the Senate, and is working for its passage.

As ESSAA Executive Board members pointed out at the recent meeting in Saratoga, over the years employees have consistently sacrificed salary increases and other benefits in favor of improved health insurance. The inequity of – in effect – retroactively reversing these agreements will have a negative effect on retirees for years to come. Once again, members are urged to contact their senators and representatives.

## NEGOTIATIONS AND LEGAL UPDATES

### **Kevin Martin, ESSAA attorney, advises members that:**

- PERB actions not only solve individual problems, but help ensure that things will go more smoothly in future collective bargaining.
- Negotiators should retain the original notes from collective bargaining. With the turnover in both administrators and superintendents, the collective “memory” is shorter and shorter, and these notes are essential when PERB actions are necessary in the future.
- There are many “subcontracting issues” which ESSAA is working on, in which administrative duties are “outplaced,” : moved outside the bargaining unit.
- ESSAA brought a PERB action against an attempt by Schenectady to require administrators to attend a job fair outside normal working hours. When an administrator said he could not attend, Schenectady placed a disciplinary letter in the administrator’s personnel file. As a result of the PERB action, the District pulled the letter out of the file and now understands that it cannot change working conditions without a collective bargaining agreement.

### **Paul Derkasch, ESSAA attorney, points to two cases of particular interest for members:**

- The first, decided in the New York Court of Appeals, determined both that there must be fair representation in collective bargaining, and that retroactivity is a mandatory subject of collective bargaining.
- In the second case, there are indications that districts which provide days off for religious observances stand in violation of the Constitutional provisions that ensure the separation of Church and State.

### **Dave Wagner, Education Liaison, wants to alerts all members that:**

State Arts requirements – such as Home and Careers, Art, and Music - in grades 5-8 -may be satisfied completely by courses taken in the 5<sup>th</sup> and 6<sup>th</sup> grade.

# REPORTS FROM SARATOGA

## JAN YABLOW SHARES SNAPSHOT OF LEARNING IN NEW YORK STATE

By Bob Liftig

ESSAA's Director of Research and Development, Jan Yablow, reviewed "The State of Learning," and "Annual Snapshot" of New York schools at the recent ESSAA conference in Saratoga.

Jan pointed to a change in the obligation of the State to educate its students; he cited the 2003 New York Court of Appeals ruling, which states that the state Constitutional requirement for a sound basic education means specifically: "the opportunity for a meaningful high school education."

Prior to this (as recently as 1995) all that was required was that the state offer children "the opportunity for a sound basic education," namely "the basic literacy, calculating, and verbal skills necessary to enable children to eventually function productively as civic participants capable of voting and serving on a jury." This was interpreted to mean that the State was required to educate students only to grade 8. The original wording of the State Constitution (Article XI) reads, "...the legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this state may be educated."

There is an abundance of valuable information in this report, including the following that may be of interest to ESSAA members:

### Enrollment

- There are 2.84 million students in New York State's public schools, accounting for 85% of all school children in the

state. New York City, the largest of the state's 700 school districts, and country's largest district as well, serves 1.057 million children - more than a third of the state's public school students.

- Although there are 25 other school districts with over 9,000 students (eg. Rochester, Buffalo, Yonkers, and Syracuse) the typical district - more than 540 of the state's 700 districts - has fewer than 3,000 students.

### Where The Money Comes From

- Of the more than \$34 billion in 2000-01 school district revenues, districts provided approximately 49.6%, the State 40.5%, and the federal government 4.4%. 5.4% came from School Tax Relief (STAR).

### Where The Money Goes

- The average district spends the majority of its money - 76% - on instruction and only 2% on central administration. 5% goes to transportation, 5% to debt service, and 12% to other categories. New York City spends its money similarly, except that it spends more on instruction, 80%, and less on debt service, 3%, and other categories, 10%..

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## ADMINISTRATORS FACE CHALLENGES WHEN RESPONDING TO STUDENT THREATS

by Bob Liftig

In a report to the ESSAA Executive Board, Auburn's Chuck Mitchell spoke about Project SAVE and outlined some of the challenges facing administrators responding to threats of "targeted violence," which he defined as "any incident of violence where a known or knowable attacker selects a particular target prior to their violent attack."

Districts are increasingly using "A Guide To Managing Threatening Situations And To Creating Safe School Climates" in assessing and dealing with post-Columbine peer violence.

Sponsored by both the U.S. Secret Service and the Department of Education, the Guide:

**includes suggestions for developing a threat assessment team within a school or school district, steps to take when a threat or other information of concern comes to light, consideration about when to involve law enforcement personnel, issues of information sharing, and ideas for creating safe school climates."**

The report points out that "compared to other types of violence and crime children face both in and outside of school, school-based attacks are rare." Even so, school shootings have been highly publicized, and national attention has "generated fear that an attack might occur in any school, in any community."

The guide calls on school officials to assess the level of the threat and document everything about it. In the sample form Chuck Mitchell distributed, for example, school officials are called upon to determine whether there is a level of threat high enough to involve local law enforcement.

Chuck pointed out that there are emerging questions of liability that can be problematic for administrators - especially in hindsight. If an administrator misjudges the threat, recriminations and bad press frequently result. Calling in law enforcement unnecessarily can lead to a "boy who cried wolf" scenario; but, in

the event of an outbreak of violence, the failure to have called in law enforcement can lead to disaster.

Whatever the case, the Guide emphasizes that a well-documented record provides:

**...baseline information about a student's thinking and actions at a certain point in time... Also, should a threatening situation result in civil or criminal action against a student or others, a carefully documented investigative file will be an important asset in demonstrating that a threat assessment investigation was conducted properly and in compliance with applicable laws, policies, and procedures.**

Copies of the Guide and its companion piece, "The Final Report And Findings of the Safe School Initiative: Implications For The Prevention of School Attacks In The United States," may be obtained through either the Secret Service or the Department of Education at the following addresses:

US Secret Service  
National Threat Assessment Center  
950 H Street NW, Suite 9100  
Washington, D.C. 20223  
Web site: [www.secretservice.gov/ntac](http://www.secretservice.gov/ntac)  
Or  
US Department of Education  
Safe and Drug Free Schools Program  
400 Maryland Avenue, SW  
Washington, DC 20202-6123  
Web site: [www.ed.gov/oese/offices/sdfs](http://www.ed.gov/oese/offices/sdfs)

## Settlements Focus On Health Care Issues

- Binghamton will extend health benefits to domestic partners, which may include close relations.
- Baldwinsville is negotiating the use of additional sick pay for catastrophic illnesses.
- Under the new Medicare plan, employees who retired under plans which guaranteed full coverage, may be faced with a reduction in benefits (see feature article in this issue).
- Oneonca Central BOCES held the line on health insurance contributions in its 2 year contract. OCM BOCES continues to pay 100% of the health insurance premium for individuals and family.

## NEWSCLIPS FROM AROUND THE NATION

### Miss. AP Refuses Order to Paddle Middle School Students: Resigns

Ralph McLaney, AP at Carver Middle School in Mississippi, refused the order of his principal, Earnest Ward, to paddle an 80 pound student because she talked back to a teacher. "The idea of a big white guy hitting an 80 pound black girl ... didn't sit well with me," said McLaney, who later resigned his post.

Paddling with advance parental consent, and in the presence of a witness, is still a common practice in the Bible Belt. The U.S. is the only country in the industrialized world that still allows corporal punishment, which is outlawed in only 28 U.S. states. In McLaney's district, paddling must be carried out by an administrator in his or her office, in the presence of a witness, and only in the administrator's office. "The point is to get the student's attention" said Principal Ward. (From the Washington Post)

### Michigan Teacher Must Pay For Sub When Called Up For Active Duty

Barry Bernhardt, a middle school science teacher in Kenowa Hills, Michigan, was told by his Superintendent and Board of Ed that he will have to pay \$74 per day for his substitute teacher and turn over the \$78 in salary that he will receive each day from the National Guard. Bernhardt has been called to active duty in Italy, and was there by the time the Board met with angry parents and district employees.

"It's inaccurate to say we didn't do anything for him," said Superintendent Jim Gillette, stating that the district did agree to provide Bernhardt with all his other benefits during his two week absence. Bernhardt would have received \$593 more than his usual salary if he had been paid both his military and his school teacher's pay. "It's a fact that he's not losing money, that he's making money," the Superintendent said. "Whatever way you look at it, he's still making money." (From the Associated Press, March 3, 2004)

### Ohio Super "Shocked" By Sports Illustrated: Suspends Sixth Grade Student

A Belpre, Ohio sixth grader was suspended for three days and ordered to attend alternative school for two days for bringing a copy of SI's "swimsuit edition" to school. Principal Kathy Garrison cited the student for violating the school's policy on nonverbal harassment and possession of lewd or suggestive material. The student's mother refused to accept the punishment, saying, "It's not like it was Hustler ... The punishment doesn't fit the crime." District Superintendent Tim Swarr, who claims he had never before seen SI's swimsuit edition, said, "I was shocked. It doesn't belong in public schools."

*continued on page 16*

### Believe it or Not!... *continued from page 4*

Governor Jeb Bush, a proponent of "school choice" like his brother, the President, claims he didn't know anything about the deal – which, by the way, was brokered by Bear, Stearns & Co., whose head raised more than \$137,000 for the Bush reelection campaign. Governor Jeb sits on the State Board of Administration with his cabinet, which sets investment guidelines for the State of Florida. Liberty Partners, a Florida investment firm involved in the deal, was represented by a law firm that has raised more than \$100,000 for the President's reelection campaign.

Florida's \$95.3 billion pension fund suffered from bad investments in Enron and WorldCom, and many Democratic politicians as well as State employee unions had called for greater oversight over the fund, over which they have little control.

The Governor, however, rejected their arguments, saying that it was their complaints – not his actions – that were politically motivated, even though most of the major figures in the stock option deal are GOP supporters. "We shouldn't be making decisions based on politics," Bush told them.

Edison advertises that it runs 150 schools in 23 states, and serves a total student population of 82,000. The Philadelphia experiment was the largest ever effort to manage public education with a private corporation.

Henry Levin, the director of the Teachers College's National Center for the Study of Privatization in Education doubts that Edison will ever turn a profit, saying, "My own view of this is that the economies of scale in this industry are pretty tough for the for-profits." Levin does believe, however, that Edison's recent expansion into managing after school programs and summer schools is "a very smart move."

Even so, it seems the public employees of Florida – including its teachers – are now heavily invested, not only in the economic equivalent of a Florida Sinkhole, but in an enterprise that would privatize their own jobs out of existence even as it may jeopardize their pensions.

# RECENT SETTLEMENTS

## OSSINING ADMINISTRATORS BREAK THE BANK 23% OVER THREE YEARS USING THE ESSAA EXECUTIVE RECRUITMENT PLAN

Congratulations to the Ossining Administrators Association for successfully negotiating a new three contract that provides the unit with a 23% increase in salary! The Association utilized the ESSAA Executive Recruitment and Retention Plan under which a settlement announced at 4.0%, 3.4%, and 3.4%, resulted in 23% for the unit.

The Association's Negotiating Team consisted of President and High School Principal Josh Mandel, and Director of Science Andra Meyerson. They started the process early in the school year by meeting with the membership to discuss the contract. They met in both large and small groups to focus on the issues of interest to the membership. They also worked closely with ESSAA counsel Bob Saperstein from the beginning of the process.

ESSAA counsel explained the Executive Recruitment Plan and developed spread sheets illustrating the salaries generated by the plan. Additional spread sheets could be produced to illustrate different scenarios. ESSAA counsel was also able to provide comparative salary data. The Negotiating Team was particularly well prepared to discuss different monetary options. Telephone debriefing sessions were conducted with

counsel between negotiating sessions.

The Team astutely pointed out that the growing shortage of administrators was resulting in an escalation of salaries and that substantial increases were necessary for Ossining to remain competitive. The Team was savvy enough to realize that some concessions in other areas were required.

In return for the 23% salary increase, the Team was willing to increase the unit's health insurance contribution from a fixed amount to 10%, which cost about \$500 a year. The unit also agreed to reduce their vacation days from 32 to 30 a year. In addition to the large raise the unit also secured an increase in their sick leave payout upon retirement from \$12,500 to \$20,000.

The Superintendent and School Board also recognized the superlative job the Ossining Administrators were doing and wanted to reward them for their efforts and insure that the District would be able to retain these qualified individuals in the face of an increasingly competitive market for administrators. The result was a win-win for the administrators, the district, and the community.

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## PORT CHESTER ADMINISTRATORS SECURE SIGNIFICANT GAINS IN FIVE YEAR CONTRACT

The Port Chester Administrators and Supervisors Association successfully negotiated a five year contract that provides 4.0% a year plus step, plus three new (higher) steps worth 2.0%, plus increases in existing longevity and the creation of new longevity steps, plus the addition of a doctoral stipend, plus a 25% increase in their sick leave payout to \$100 a day, plus contractually guaranteed percentages for health insurance into retirement, plus \$125 a year meal reimbursement, plus a sick leave bank, and family illness days. The salary dollars thus generated are more than 30% over the five years of the contract.

The Negotiating Team of Middle School Principal Carmen Macchia, Elementary School Principal Eileen Santiago, and High School Assistant Principal Mark Santora, working with ESSAA Counsel Bob Saperstein, spent a year negotiating this gem of a deal. Once again, another Superintendent and Board of Education recognized that their administrators are the glue that holds the District together, and that they should be rewarded. Additionally, issues of retention and recruitment played a large part in the District's thinking.

In return for this, the Association agreed to an additional \$350 a year health insurance contribution and to delete a life insurance clause for current members and future retirees. The life insurance clause was the one reported several newsletters back which ESSAA successfully had pursued to arbitration

when the District terminated the benefits for retirees. The contract settlement left intact the benefits for those already retired, and substituted economic and fringe benefit increases far more attractive than the life insurance for current members.

In another permutation of negotiations, the Port Chester Administrators started the negotiations informally with the Superintendent, then brought ESSAA counsel to the table, and then returned to informal discussions to reach the final resolution. However, at all times the Chief Negotiator, Association President Carmen Macchia, was in close communication with counsel.

The points to remember are that there is no "correct" way to negotiate and that different approaches will work in different circumstances. On the other hand, there are wrong approaches, and these usually involve direct negotiations when the unit has not involved counsel in the planning stage. Counsel bring vast experience in negotiating strategies, proposal development, negotiating approaches and data analysis. Counsel have heard most of the arguments likely to be made by your district, and spending some time, even by telephone, role playing the negotiation of specific issues, can make a world of difference.

ESSAA members pay their dues in large part to have access to experienced education law attorneys and should utilize that expertise in contract negotiations.

# ALBANY CHARTER BARGAINING AT IMPASSE

The official newspaper of NYSUT, the “New York Teacher,” reports that the union representing teachers at the New Covenant School in Albany has declared an impasse in bargaining for its first contract, and has asked PERB for mediation.

The New Covenant Education Association says that the main obstacle in its negotiations with the New Covenant School Board is reducing the enormous teacher and administrative turnover. Only five teachers remain of the fifty or so who were hired when the school opened five years ago.

New York’s Charter School Institute also cited too high a turnover in administrators, board members, and management companies as a major problem in this school (it is unclear whether this turnover is caused by firings or voluntary departures). NCEA spokeswoman Susanna Ruiz summed up their situation by saying, “Teacher turnover hurts New Covenant’s ability to move forward.”

Edison Schools is the current manager of New Covenant, though – according to the NCEA – it does have a decent reputation in offering competitive salaries. The Covenant teachers are being represented in their negotiations by NYSUT.

As was previously reported in *The Journal*, New Covenant’s charter was recently renewed by SUNY, though the State ordered the school to close its seventh and eighth grade programs, and to limit sixth grade enrollment to students already signed up

To Boost Student Performance, More States Sign On To Charters: Kansas City Tries Cash Rewards

The National Association of State Boards of Education information service reports that New Hampshire and Connecticut have approved more charter schools: four for the Granite State, and a second for Connecticut that will replicate The Amistad Academy of New Haven.

The problem in both of these states, according to charter school advocates, is funding, because, under current law they will receive two thousand dollars less per pupil than will public schools.

Maryland has begun its own experiment with charters in Frederick, a mostly government employee town about 40 miles north east of Washington, where The Monocacy Valley Montessori School will become the first charter school in the Old Line State.

The superintendent of Kansas City is trying a different – and obviously cheaper approach: cash awards as incentives to students who raise their scores on standardized exams. According to the Teachers College News Bureau and the Kansas City Star, School Superintendent Bernard Taylor Jr. has proposed that over a quarter of a million dollars be set aside for these rewards. Under the Taylor incentive plan, an individual student who raises his or her score could receive from \$20 to \$80.

“We don’t have a clear system of rewards for kids,” said Taylor, who apparently is not familiar enough with the concepts of grading and promotion. “Our idea of motivation seems to be a stick, not the carrot ... No one seems to think that it is wrong to reward adults.”

## BOARD SETTLES SUIT THAT CLAIMS OFFICIALS FORCED STUDENTS TO WITHDRAW FROM SCHOOL

The New York City Board of Education (BOE) has settled a class action suit brought by former students who claimed that school officials at Franklin K. Lane High School had illegally forced them to withdraw from school. As reported in the August 7, 2003 edition of Legal Clips, the suit alleged that school officials at Lane routinely told “difficult” students that they had to leave. Among the students forced out were a special-education student who was told that services were no longer available, an injured student who had trouble getting to classes because he could not climb stairs, and an 18-year-old who had repeatedly failed the English Regents exam but had passed all the others. Many of the students forced to leave were “over-age,” a term applied to students who fall behind their expected grade level. Under the terms of the settlement agreement, which do not include an admission of liability, the BOE will reenroll all students discharged from Lane since Jan. 1, 2000. The students have the option of returning to Lane or to another school. BOE also agrees to open a Young Adult Success Center, at a neighborhood social service center, that will offer current and former Lane students at least 12 hours a week of academic and other support services. In addition, the settlement clarifies that students may not be transferred against their will into G.E.D. programs or other non-diploma-granting programs and may not be recorded as having been sent to another program until Lane has confirmed that they are actually attending that program.

## 11 SCHOOLS ADDED TO SED SURR

In January, Commissioner Richard Mills placed 11 schools on New York’s registration review list and removed 22 schools. According to the NYSED, that means that 66 schools are under review, with 46 of these being in New York City.

Eight of the schools are on the SURR list because of low student performance on middle or high school math tests, and must revise their instructional programs to help students pass.

SEC says that eight of the eleven schools listed this year are in New York City and three in Buffalo. Of the schools removed, 17 are in New York City, two in Yonkers – Emerson M.S. and Lincoln H.S.- and one each in Buffalo, Syracuse, and Wyandanch.

No school was identified for elementary English or Math, indicating, according to Albany, elementary school performance is

improving across New York State. Mills said, “The SURR process has helped to improve education for thousands of students. It will continue to be an important tool to leverage change.”

The Commissioner also stated that the level of achievement schools were required to demonstrate this year was “more rigorous” than last year’s, as the “cutpoint” was raised from 80 to 82 on Grade 8 Math; for high schools, the cutpoint for English and Math had been 82, but this year was raised to 85.

Mills raised the cutpoint for the current year to 90 in Grade 4 and in high school English and Math, to 85 in Grade 8 English, and to 60 in Grade 8 Math.

# YONKERS' LITTLE SHOPRITE OF HORRORS: Charter Schools Come to Westchester

The State Board of Regents has recommended that Westchester's first charter school be opened this September on the second floor of the ShopRite shopping center on Prospect Street.

The Charter School of Educational Excellence will house between 150 and 200 students, grades K – 2, in its first year, with school growth planned to include grades 3, 4, and 5 in the future.

There are more than 2,000 charter schools in the country. New York has 55: NYC, 24, Buffalo 9, Rochester, 4, Syracuse, 3, and there are 15 others. The tuition for each student is paid by the student's home district; the Yonkers school is expected to cost \$10,010 per student. That means about \$2 million will be paid by financially suffering Yonkers (with a \$20 million deficit) to Victory Schools Inc., a private operator of 3 charter schools in Philadelphia, Baltimore, and New York City.

Though it is publicly funded, the Yonkers school – like all charter schools - will be exempt from many of the rules and regulations of other public schools (although in New York State, charter school students are required to take all statewide exams).

Yonkers charter school advocates say that their efforts are in part a response to what they see as the poor quality of public education in their city, where 11 of 39 schools have been judged "in need of improvement" by NYSED (See related article in this issue).

One of the special "attractions" (according to its proponents) of the School of Educational Excellence is that its school day will be 9 hours while 6.7 hours is average for the Yonkers elementary schools. The school hopes to "focus on reading and writing."

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## LEGAL CLIPS FROM THE NATIONAL SCHOOL BOARD ASSOCIATION

### EQUITY & DISCRIMINATION

By John Cummings, *Beacon*

Thirteen school districts in Suffolk County (NY) face a federal class action lawsuit that claims they are violating the McKinney-Vento Homeless Assistance Act by refusing to accept and educate homeless children "simply because they are homeless." Under the Act, local school districts are required to provide homeless children with a continuing education. The Act provides federal funds through the state to achieve that goal. Also named as defendants in the suit are the Suffolk County Department of Social Services (DSS) and the State of New York. The suit was brought by the National Law Center on Homelessness and Poverty (NLCHP) in Washington, D.C. and the Long Island Advocacy Center in Hauppauge, NY. The plaintiffs charge that the state, DSS, and the school districts are in violation of McKinney-Vento because when welfare programs move homeless families, their school districts, citing lack of residency, resist accepting them.

*For the full story, point your browser to:* [http://www.babylonbeacon.com/news/2004/0319/Front\\_page/003.html](http://www.babylonbeacon.com/news/2004/0319/Front_page/003.html)

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### CAUTION IN ASSIGNING STUDENTS TO PERFORM TASKS

An Arizona appellate court has ruled that students who negligently injured a teacher while performing an errand for another teacher were not "employed" by the school for purposes of Arizona's Workers' Compensation Act (AWCA). As a result, the court held that the AWCA was not the injured teacher's exclusive remedy and that she could recover in tort from the students for their negligence. Two student council members at Townsend Middle School were asked by a teacher to retrieve a paper cart from another room. While they were returning with the cart, Karen Mitchell, a teacher, opened the door of her classroom to leave. The cart struck the door, which struck Ms. Mitchell, injuring her. She filed a claim for and received workers' compensation benefits. She then filed a negligence suit against the students, seeking damages. The trial court granted the students' motion for summary judgment on the grounds that they were co-employees of the injured teacher and were employed by the school at time of the accident and that the AWCA therefore barred the negligence claim. The appellate court reversed, rejecting the students' argument that, because they were "performing the errand in the service of the school pursuant to their teacher's appointment of them for that task," they were acting as school "employees" within the statutory definition of the word. The court found three flaws in this argument: (1) the teacher's designation of the students to perform the errand did not constitute an "appointment" for purposes of the statute; (2) the evidence did not clearly establish that they were acting in the service of the school district; and (3) the students failed to cite any facts or law to suggest the teacher had the authority to transform the students into school employees "by merely appointing them to perform a routine errand." In closing, the court took note of the public policy arguments for and against finding that students engaged by teachers in routine tasks are employees for AWCA purposes and the fact that the related statutes do not specifically address the teacher-student relationship at issue in this case. However, the court concluded that, "in the face of Arizona's extensive and elaborate statutory scheme, it is for the legislature, not this court, to weigh the policy considerations and determine whether any statutory change is appropriate or necessary." *Mitchell v. Gamble*, No. 02-0184 (Ariz.App. April 1, 2004)

*For the full opinion go to :* <http://www.apltwo.ct.state.az.us/Decisions/CV20030131Opn.pdf>

## STUDENT DISCIPLINE

A brawl erupted among students at Woodlawn High School (MD) as they attended an assembly on anger management. Two arrests resulted, and 11 students were suspended. The fight began when a student and her mother confronted a group of students who were harassing the student. The confrontation quickly escalated from shouting to shoving and punching. At that point, chaos spread throughout the 750-student assembly, with students climbing over chairs to attack others. Meanwhile, a group of students on stage were acting out nonviolent ways to resolve conflicts. Douglas J. Neilson, a spokesman for Baltimore County schools, said, "Unfortunately, that original incident at the assembly became the catalyst for other fights." The student and her mother face criminal charges. Principal C. Anthony Thompson says that the school may recommend that some of the suspended students be expelled.

*For the Full story:* <http://www.cnn.com/2004/US/South/04/02/anger.management.ap/>

## DISABILITIES & SPECIAL EDUCATION

A New York federal district court has ruled that a county social services department violated the rights of disabled students to a free appropriate public education (FAPE) under the Individuals With Disabilities Education Act (IDEA) when the agency placed liens on personal injury awards obtained by the students in attempt to recover the costs of related services the county's schools provided to the students pursuant to IDEA. The court also concluded that the students' allegations supported their equal protection and procedural due process claims. Ashley Andree and Franklin Moronta are disabled children who recovered personal injury awards from the parties responsible for their disabilities. Nassau County Department of Social Services (DSS) placed liens on the awards in order to recover for Medicaid benefits DSS provided to the children. Through their parents, the students filed suit, claiming that the liens were improper to the extent that included amounts attributable to "related services" provided under IDEA. They argued that IDEA requires such services to be provided free of charge and that the county's failure to do so deprived them of a FAPE. The court agreed that any attempt to recover for providing "related services" as defined by IDEA would violate the students' right to a FAPE and inflate the amounts of the liens to which DSS is entitled. The same allegations support an equal protection claim, the court held, because the students argue that there is no rational basis for treating them differently from other disabled students receiving "related services" solely because they have obtained monetary awards for their disabilities. In addition, the court upheld the procedural due process claim, finding that a final money judgment created a constitutionally protected property interest and that the liens constitute a deprivation without due process of law. *Andree v. County of Nassau*, 2004 WL 637470 (E.D.N.Y. March 26, 2004)

## NO CHILD LEFT BEHIND

The Maine Senate has passed a bill that would prohibit the use of state funds to comply with the provisions of the No Child Left Behind Act (NCLB). The bill directs the Maine Department of Education to determine the state's cost of complying with NCLB and limits compliance to measures covered by federal funds. Sen. Michael Brennan, who sponsored the bill, said that NCLB is "confusing and unnecessary" and that the bill makes it clear that Maine's own school-reform law, Learning Results, is the state's top priority.

*Full story:* <http://www.wmtw.com/Global/story.asp?S=1765383&nav=7k6rM575>

## TEXAS LOOKS AT SCHOOL FINANCE REFORM

Texas Governor Rick Perry has called for a special legislative session to consider reforming his state's so-called "Robin-hood" system of public school finance. Governor Perry seeks to eliminate a system that relies heavily on property taxes and instead raise "sin" taxes to maintain equity in school funding. The current funding program was written in 1993 after a court ruled that Texas schools must be given an equal chance to provide a basic education. Although poor schools benefited from the 1993 plan, many still are in need of additional funding, while homeowners are pleading for relief from property taxes. Gov. Perry's plan includes cutting property taxes by \$6 billion, while taxing cigarettes, video lottery gambling, and adult entertainment to raise an estimated \$2.5 billion. The plan also would close loopholes in the motor vehicle sales tax and the franchise tax. Currently the plan has not been endorsed by leaders in either branch of the legislature and would require a constitutional amendment to create video gambling. Gov. Perry has stated that he would be open to other school finance plans but will not consider any type of tax bill that would harm the state's business climate or slow job creation.

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STORY!!!**

**Legalclips , continued from page 15**

## **SEXUAL HARASSMENT DOES NOT = SEXUAL ABUSE**

Two Mesa Public School (AZ) administrators face the loss of their teaching licenses if they are found guilty for failing to report an incident of sexual abuse. The incident, in which a football player shoved a girl's face into his crotch during class, was classified as sexual harassment, not sexual abuse, by the school's athletic director and assistant principal. However, Mesa police, who were informed of the incident by the victim's mother, charged the administrators with violating a state law requiring school personnel to immediately report each incident of sexual abuse of a child to police or Child Protective Services. Because the administrators viewed the incident only as harassment and not abuse, they did not report the incident and now face misdemeanor charges and an investigation by the State Department of Education, which could lead to the loss of teaching licenses, suspension, or letters of reprimand. Both administrators have discipline-free employment records, while the football player was previously suspended for three days in 2002 after he pulled off the same girl's pants and threw them into a tree. Swarms of school administrators have been calling the Arizona School Boards Association (ASBA) on how to report suspected incidents of either abuse or harassment. "It's not necessarily an either-or issue," says ASBA attorney Chris Thomas, "You can have both." He said it is better to over report than to underreport, even though he acknowledges that too much reporting could overwhelm police. Even if an incident can be considered "horseplay," if it involves touching, the law says to let police handle it, Thomas said.

***Would you like more information about  
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