

*ANALYSIS OF THE BOARD OF  
EDUCATION'S CHANGE OF POLICY  
REGARDING THE RETENTION OF  
STUDENTS*

## **CHANGES TO CHANCELLOR’S REGULATION A-501**

A major goal of the Board of Education in the last year has been to bring an end to what has been deemed to be a policy of “social promotion” in New York City. As set forth more fully below, the new Promotion Policy set out in September 1999 by former Chancellor Crew substantively changed the prior policy in a number of ways including but not limited to the following: (1) changing required promotional criteria; (2) eliminating the mandatory parental right to notification; (3) adding a requirement of mandatory summer school; (4) altering the appeals process; (5) eliminating an exceptions process for summer school; (6) eliminating the provisions which placed a cap on the number of times a student can be held over; and (7) eliminating students’ entitlement to services in the subjects in which they were experiencing difficulties.

### **A Short History of Promotional Policy in New York City**

Promotion decisions in the New York City public school system are and have been based on guidelines implemented and set forth in CR A-501, which was amended in September 1999 by the Chancellor. In order to fully appreciate the scope of the changes made by the new Promotional Policy, it must be viewed in the context of the history of CR A-501.

#### **Promoting Success Program**

On September 11, 1991, the Board of Education adopted a Resolution entitled “Authorization to Amend Promotional Standards for Students in Kindergarten through Grade 9 Including the Promoting Success Program in Grades 3 and High School Eligibility Requirements” (“1991 Resolution”). The 1991 Resolution modified the

promotional policy for students in kindergarten through grade 9 in New York City public schools from a program called “Promotional Gates” to a program called “Promoting Success.” The 1991 Resolution provides, in relevant part, as follows:

Resolved: That the Board of Education amend its promotional policy by eliminating Promotional Gates and establishing the Promoting Success Program for grades kindergarten through grade 9, a promotional policy that is based on early intervention, enrichment based services, and retention as the option of last resort.

1991 Resolution, Ex. D, at p. 1.

Under the Promotional Gates program, which had been in place for more than 10 years, students were held over “on the sole basis of citywide tests without consideration of their classroom performance in academic subject.” *Id.* at 2. Recognizing the failure of the philosophy “Promotional Gates,” the Board discontinued the program because “it did not sufficiently improve the achievement levels of participating grade 4 and 7 students.” *Id.*

The 1991 Resolution conceded that the Promotional Gates program had negatively impacted students, causing drop out and social problems:

It has been determined that Promotional Gates had little positive impact on students. Each year more than one-third of the students who were held over and attended Gates classes still failed to meet promotional standards. Fourth grade holdovers were no more likely, three years later, to meet the seventh grade promotional standard than students who were promoted. A longitudinal study indicated that a disproportionate percentage of students held over in Gates classes became dropouts. National research has also confirmed the negative impact of retention policies by indicating that retention doubles the chances that a student will ultimately drop out. *There is no evidence, therefore, that holdovers make academic progress, although there is evidence that holdovers*

*demonstrate greater social and emotional difficulties. Id.*  
(emphasis added).<sup>1</sup>

To replace the failed Promotional Gates program, the Board adopted the Promoting Success program that emphasized individual student assessment and additional instruction to improve the academic performance of students at risk of being held over:

The new promotional Regulations establish the Promoting Success Program based on enrichment rather than remediation. Its goal is to provide intensive, enrichment-based, supplementary support services in reading, writing, and mathematics to eligible students. . . . Through this amendment, *the Board of Education will establish a promotional policy that is based on early intervention, enrichment-based services, and retention as the option of last resort.* *Id.*, at pp. 2-3.

Thus, in 1991 the Board adopted and approved the revised Chancellor's Regulation A-501 implementing the Promoting Success program.

On June 2, 1994, the then-Chancellor Ramon Cortines issued a revised CR A-501, *Promotional Standards for Students in Grades Kindergarten through 9 Including the Promoting Success Program in Grade 3 and High School Eligibility Requirements*, addressing the Promoting Success program and promotional standards for students in New York City. That was the prior version of CR A-501 that was in effect until September 1999. The prior version of CR A-501 incorporated parental notification procedures, "enrichment-based support services" for at-risk students, and procedures for appealing individual grade and placement decisions.

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<sup>1</sup> An internal study by the Board in 1986 showed that 40 percent of the children retained under the policy dropped out before the end of high school, as compared with 25 percent of students with comparable reading scores who had not been held back. See Berger, J., "Fernandez to End a Policy on Holding Pulis Back," NY Times, Sec. A., p. 1 (Aug. 3, 1990).

The prior CR A-501 is consistent with the 1991 Resolution and the philosophy of the Board in adopting that Resolution (and was modified from CR A-501 as adopted by the 1991 Resolution to reflect “the present administration of the California Achievement Test (CAT) in mathematics in both English and translation at all grade levels” *Id.*, p. 1).

### **Changes to Promotional Criteria**

A side by side comparison of the provisions of Prior CR A-501 and the new Promotion Policy reveal that the promotional criteria for virtually every grade has been changed. Two of the most damaging changes has been the evisceration of the parental right to notice and the elimination of the entitlement to enrichment services.

#### Notice

Prior CR A-501 required that notice be provided by specific dates to parents whose children were at risk of holdover. The language of the regulation was mandatory: “Parents *must* receive written notification, in their home language wherever feasible, of the possible retention of their child by *January 31* of each school year. Parents *must* receive written notification, in their home language wherever feasible, of the retention of their child by *June 15* of each school year.”

The January notification date was not an empty procedural right; it was designed to ensure that parents are on notice of their child’s difficulties and have time to obtain the assistance to which they were legally entitled prior to the end of the school year. The

New Promotion Policy eliminated these mandatory notice requirements. Although it contains parental notification provisions, it specifically states that “failure to provide notice to parents shall not require promotion.”

*Elimination of Entitlement to Enrichment Services*

Prior CR A-501 mandated that students “who are identified in January as being at risk of failure to meet promotional standards in June . . . must be provided with *customized enrichment-based instructional support services* designed to enable them to achieve the performance standards by the end of the school year.” (emphasis added). The new Promotion Policy, while requiring students to meet higher standards, eliminates the entitlement to extra services for the students at risk. Thus, under the new policy, even if the school fails to properly notify a parent that a child is at risk of holdover and fails to offer or provide any enrichment services to assist that student, the student can still be held over.

A comparison of the provisions of Prior CR A-501 and the new CR A-501 not only demonstrate that the promotional criteria for virtually every grade has been changed, but that these changes are for the worst for school students and their families. The blanket retention policy coupled with the evisceration of the parental right to notice and the elimination of the entitlement to enrichment services spells serious trouble for the users of New York City’s public schools.