

**District 15 Community Education Council**  
**2009-2010**  
**Resolution**  
**Regarding Pave Academy Charter School**

**WHEREAS**, in or about the spring of 2008, the Department of Education (hereinafter "DOE" determined to house the then newly created PAVE Academy Charter School (hereinafter "PAVE") in the building of the Patrick F. Daly School (hereinafter "PS 15") effective September, 2008 for a period of two years until the conclusion of the 2009-10 school year;

**WHEREAS**, during that period, PAVE was authorized to admit two kindergarten and first grade classes each in its first year of operation and two additional kindergarten classes the following year (when the original classes were contemporaneously expected to progress one year each);

**WHEREAS**, both DOE and PAVE solemnly assured PS 15 parents and the Red Hook community (at a public hearing held at PS 15, before PAVE formally took residence within PS 15) that PAVE would obtain separate quarters apart from PS 15 at the end of that two year period and would thus vacate the PS 15 premises by then;

**WHEREAS**, when the laws renewing "Mayoral control" of New York City public schools were renewed in the summer of 2009, the Legislature added subdivision two-a of section 2590-h of the Education Law which requires a public review and comment process for "any proposed school closing or significant change in school utilization, including the phase-out, grade reconfiguration, re-siting, or co-location of schools."

**WHEREAS**, the recently ratified Chancellor's Regulation A-190 (purporting to implement said changes in the Education Law - hereinafter "*CR A-190*"), defines a "significant change in school utilization" as "the phase out, grade reconfiguration, re-siting, or co-location of schools in currently utilized school facilities."

**WHEREAS**, pursuant to *CR A-190*, among the procedures to be followed when the Chancellor proposes to "make any significant change in school utilization" is the preparation of "an educational impact statement which shall include" (among other things): the current and projected student enrollment of the affected school; the prospective need for such school building; the ramifications of such significant change in utilization upon the community, and an outline of any proposed or potential use of the school building for other educational programs or administrative services;

**WHEREAS**, pursuant to the newly amended subdivision 21 of Section 2590-e of the Education Law and *CR A-190*, the Chancellor is required to hold a joint hearing with the

impacted CEC and the SLT between 30 and 45 days after the required "educational impact statement" has been issued;

**WHEREAS**, pursuant to the aforesaid *CR A-190*, the Chancellor must submit proposals for significant changes in school utilization to the Panel for Education Policy for its approval on at least 45 days advance notice;

**WHEREAS**, notwithstanding the foregoing, by letter addressed to Principals Wyns-Madison and Robertson [sic] of the respective schools dated October 14, 2009 (and signed by Debra Kurshan, Interim Director of the DOE's "Office of Portfolio Planning"), the DOE determined "that the PS 15 Patrick F. Daly School and PAVE Academy Charter School will continue to temporarily share space" at least through the 2010-11 school year.

**WHEREAS**, no termination date for said "temporary" co-location is identified in said letter nor is there indication that the continuation of the admission of new kindergarten classes would be ceased or suspended;

**WHEREAS**, the Community Education Council for District 15 (hereinafter "CEC-15") unequivocally believes that the extension of the PAVE Academy's stay at the PS 15 building - after it was scheduled to vacate the premises (and especially where, as here, PAVE Academy would be scheduled to *expand* by another one-third) - constitutes a "significant change in school utilization" as contemplated by the amendments to the Education Law and *CR A-190*.

**WHEREAS**, none of the procedural prerequisites necessary for such a change have yet been followed by the DOE;

**WHEREAS**, long before the instant controversy arose, CEC-15 has consistently taken a resolute position favoring community consultation and meaningful input in decisions affecting the opening, closing and siting of schools within our District, and

**WHEREAS**, CEC-15 does not yet (and indeed, may never) take a position on the actual merits of the continued co-location of PAVE and PS 15 (and/or the details thereof),

**IT IS HEREBY RESOLVED**, that CEC-15 calls upon the DOE to follow the Education Law and if it deems the continued co-location of the two schools past this school year to be advisable, then the Chancellor should first issue an educational impact statement prior to scheduling a joint hearing with the CEC and PS 15's SLT on any proposed extension of PAVE's stay;

**IT IS FURTHER RESOLVED**, that until such time as the preceding procedural prerequisites have been met, CEC-15 calls upon the DOE to forebear from implementing any plan for the allocation of rooms to both schools for the 2010-11 school year, and

**IT IS FURTHER RESOLVED**, that should the DOE continue to go forward with its announced plans without following the procedures set forth in the Education Law, CEC-15 hereby authorizes *the Council* to *join* any litigation to compel the DOE to comply with its statutory obligations.

***Submitted by:* James W. Devor, President; and passed unanimously at a General Meeting of the CEC for District 15 on November 19, 2009.**