



TESTIMONY

Parole Policies and Voting by Parolees

Senate Committees on
Crime Victims, Crime and Correction
and Elections

October 1, 2018

Chairman Gallivan, Chairman Akshar, other members of the Senate:

I am Robert Lowry, Deputy Director of the New York State Council of School Superintendents. Thank you for this opportunity to testify. I will speak on issues around voting by parolees at school sites.

A few years ago, we asked superintendents across the state to tell us, via email, what they most wanted the public to know about their work. We received many eloquent responses, explaining the varied challenges and rewards of leading public school systems.

One reply was especially poignant, however. That superintendent wrote, "Every morning I wake up thinking, 'Can we keep everyone safe today?'"

Every superintendent feels an obligation to every family to leave nothing undone that could assure the safety of their children while at school. That sense of obligation extends to protecting the adults who work in the schools as well.

Superintendents are expected to lead when emergencies arise and to console when tragedies result. Another of those superintendents wrote, "I attend student athletic contests, concerts, and plays to show my support, but also to be 'on the scene' if an emergency arose. I've visited hospitals and gone to funerals to console students, staff, parents and family members who were struggling to cope with illness, injury and loss."

In the aftermath of the horror last February at Marjory Stoneman Douglas High School in Parkland, Florida, superintendents, school boards and their partners in law enforcement have been re-examining security in their schools and attempting to reassure families that no deficiency is being overlooked and no reasonable improvement will be dismissed. Our schools remain among the safest places for children and young people.

In a survey we expect to report on soon, 89 percent of superintendents told us that their districts have taken at least one action since the Parkland tragedy to improve school security; 64 percent report three or more actions have been taken. If a district has not taken any recent steps to improve security, it might be that they had done so previously, and 97 percent did report earlier security improvements. Over 70 percent said their districts are actively considering some further security improvement.

We also found that, for 82 percent of districts statewide, superintendents said "ability to fund school security improvements in response to parent and community concerns" was either somewhat of a problem or a significant problem.

All this provides context for understanding how we as a superintendents' organization must think about the issue of parolees voting in schools.

In the run-up to last month's primary election, there were many media reports on the prospect of newly pardoned sex offenders on parole voting in schools.

Here is the way the process for granting those individuals permission to vote in a school building is supposed to work as we understand it:

- First, the parolee informs his or her parole officer of a desire to vote and that the assigned polling place is a school.
- Then the parole officer makes a determination of whether the parolee should be permitted to do so.
- If permission is to be given, parolees must advise their parole officers of the route they will take to reach the school polling place. Parole officers have been directed to only grant permission to vote between the hours of 7 and 9 p.m. and parolees are advised that they must leave school grounds promptly.
- If the parole officer grants permission, then the State Department of Corrections and Community Supervision sends a letter to the school superintendent or other chief administrative officer advising of the request and seeking his or her decision on whether to grant final approval.

This is the process for entering upon school grounds as prescribed in section 259-c of the Executive Law since at least 2006.

In the days and weeks leading up to last month's primary election, not a single superintendent contacted us to advise us of having received voting requests, or to seek our guidance.

We contacted the Department of Corrections and Community Supervision two days before the primary. We learned that fewer than 10 parolees had made requests and only one had been approved by DOCCS as of that day. We were told that if districts had not received requests by that date, it was unlikely that they would.

In the time since, we have informally polled groups of superintendents around the state, including a statewide elected leadership group at our fall conference two weekends ago. Thus far, no one we have asked received a request from a paroled sex offender seeking to vote. Nor have any known of colleagues who received a request.

It is possible that there will be a greater number of requests to vote in next month's general election. But so far, the media attention given this issue appears well out of proportion to actual "on the ground" experiences of school district leaders.

Having said all this, the process as prescribed in law places superintendents in an awful position.

I've explained the surpassing sense of obligation each superintendent feels for assuring the safety of all children and how that has been amplified in the aftermath of Parkland and other tragedies.

So put yourself in the role of a superintendent: Whatever assurances may have been given, whatever your personal beliefs, how would you explain to your board and your community that you had given explicit permission to a convicted sex offender to enter school grounds?

Superintendents are appointed and overseen by elected school boards in all but New York City and Yonkers. Both superintendents and board members are servants of a community. Board members would have the same dilemma as superintendents.

Also, while the vast majority of superintendents and school boards enjoy constructive, mutually respectful relationships, there are exceptions. Some superintendents, even accomplished long-term leaders, cope with one or more board members looking to seize upon any mis-step to orchestrate their dismissal. This is one more reason some superintendents might feel impelled to deny permission to vote in a school.

So we would hope that paroled sex offenders seeking to exercise the right to vote would be encouraged, directed or required to vote by absentee ballot.

There are other points we want to make about voting and the safety of schoolchildren.

We support Senator Phillips's bill (S.9155) to give schools the authority to decline to serve as polling places, similar to the discretion now allowed to other entities. In the aftermath of Parkland and other episodes of school violence, many school district leaders are hearing greater concern from parents about voting in schools.

On the other hand, we strongly oppose legislation to require school districts not to conduct classes on Election Day.

First, not all school buildings are used as polling places. There are areas where not a single public school is used as for voting. So it makes no sense to require those all schools to be closed on Election Day.

Second, in some years all districts struggle to schedule the 180 "session days" required for full state aid plus a few extra to offset days lost to weather and other disruptions, due to when holidays fall in the calendar and to collective bargaining provisions that cannot be unilaterally changed.

State law requires all days of student instruction to occur between September 1 and the last day of Regents Examinations in June. Some districts with increasingly diverse student populations are especially challenged to meet the 180-day requirement as they have added days off for observance of the Hindu holiday of Diwali and the Muslim holiday of Eid. Requiring that schools not hold instruction on Election Day would compound their difficulty in scheduling all instruction days.

Joseph Erardi was superintendent of the Newtown, Connecticut school district in December 2012 when 20 children and six employees were murdered at that district's Sandy Hook Elementary School. He spoke at our statewide fall conference last week. He told our members, "Every school leader needs to own school safety, not to delegate it."

Given that school superintendents are accountable for keeping all schoolchildren safe, it is not reasonable to expect that they could explicitly grant permission to a paroled sex offender to vote on school grounds. Generally, they will not be in any position to assess the risk that any one individual might pose.

Because superintendents are accountable, together with their boards, they should be allowed the discretion to determine whether schools should be closed on a voting day and whether voting on school grounds on any day can be accommodated without risk to schoolchildren.

Thank you for this opportunity to testify. I would be pleased to attempt to answer any questions.