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## 2021-2022 Legislative Memorandum

**Subject: Expanding Monitor Power in the East Ramapo School District -- A.5683 (Zebrowski) / S.6052 (Reichlin-Melnick)**

**Position: SUPPORT**

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For over a decade, the East Ramapo Central school district (ERCSD) has faced a crisis of leadership that has resulted in the steep decline of its public schools. Today, the district can accurately be described as a “21<sup>st</sup> century Jim Crow” school system, where the education of white students attending private religious schools is prioritized at the expense of the public school system that almost entirely serves students of color. While state actors have attempted many interventions and reforms in the district, they have so far failed to restore quality education to the district’s public schools.

In 2014, after the school board slashed public school budgets and eliminated teachers, arts programs, extracurricular programs, and full-day kindergarten, the state Education Department appointed a monitor, Hank Greenberg, to examine what was going on in the district. His report made clear that school board favoritism was flowing to the district’s private schools, decried the board’s “abysmal” fiscal management and lambasted its “inexcusable” lack of transparency.<sup>1</sup> Greenberg recommended the state give the Commissioner of Education the power to appoint a monitor with expanded authority to protect the interests of public school students.

After many years of exploring alternatives, including monitors with limited power, A.5683/S.6052 represents an effort to finally realize the key recommendation of the Greenberg report. The NYCLU supports this legislation and calls for its passage.

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<sup>1</sup> Hank Greenberg, “East Ramapo: A School District in Crisis” (2014), <http://www.p12.nysed.gov/docs/east-ramapo-fiscal-monitor-presentation.pdf>.

Of nearly 9,000 students in ERCSD public schools, 96% are students of color, 35% are English language learners, and 85% are economically disadvantaged.<sup>2</sup> Many are immigrants or first-generation Americans from Central America and the Caribbean; the school district covers a geographic area that is home to the nation's second-largest concentration of Haitian-Americans.<sup>3</sup> These students have been systematically and unfairly denied their right to an education by the white majority in their school district. The 2018 graduation rate of 60% is dismal, and well below the statewide average.<sup>4</sup> From March to November of 2020, as many as 5,000 students were effectively denied access to any education whatsoever because the district failed to provide the equipment necessary for participation in remote learning.

These examples are merely the tip of the iceberg. The East Ramapo school district is a nationally-recognized blemish on New York's school system: 21<sup>st</sup> Century Jim Crow education that persists despite having been documented in detail by the New York Times, Wall Street Journal, the Atlantic and NPR, among other outlets. Currently, there are two state monitors in ERCSD who make reports and recommendations to the Commissioner, but they do not have power to override or even merely pause decisions made by school board members. This leaves the monitors essentially helpless to take any action when students' futures are threatened.

A.5683/S.6052 will expand the authority of the monitors in this extremely troubled district and is a necessary step toward rebuilding a district that meets student needs.

First, the bill will create new procedures to enhance transparency and accountability. This is crucial due to ongoing and massive transparency failures at board meetings, where board members adopt major resolutions with little to no notice to monitors.<sup>5</sup> Under the bill, the school board would be required to provide

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<sup>2</sup> U.S. Dep't of Ed., Civil Rights Data, 2017, <https://ocrdata.ed.gov/profile/9/district/29026/summary>.

<sup>3</sup> Steve Lieberman, *The Journal News*, "Influx of immigrants over five decades has made Spring Valley part of 'Haitian fabric'" (Nov. 1, 2018), <https://www.lohud.com/story/news/local/rockland/2018/11/01/influx-immigrants-over-five-decades-has-made-spring-valley-part-haitian-fabric/1327589002/>.

<sup>4</sup> Charles Szuberla and Dr. Denise Lowe, "Continuing Progress: A Report on the East Ramapo Central School District For the 2018-2019 School Year" at 8 (Oct. 2020), <http://www.nysed.gov/common/nysed/files/programs/accountability/east-ramapo-csd-2018-19-state-monitor-report.pdf>.

<sup>5</sup> See, e.g., Tom Zambito, *The Journal News*, "East Ramapo Schools Could Score Windfall with Coronavirus Funding, Contract Under Scrutiny" (Jan. 27, 2021) <https://www.lohud.com/story/news/local/rockland/ramapo/2021/01/27/federal-funding-windfall-struggling-east-ramapo-schools/4260739001/>. In January 2021, the ERCSD board voted to award a

monitors with the agenda and any proposed resolutions and motions with at least 48 hours' notice before a meeting. Resolutions or motions to change a contract or to comply with a state law or regulation would require at least seven days' notice. If the proposals are not received in time, the monitors would have the authority to remove them from the agenda.

Second, the bill requires the school board to work with monitors to adopt a robust conflict of interest policy, with guidelines outlined in the bill. The appearance of conflicts of interest has been a major source of strife in the district.<sup>6</sup>

Third, and perhaps most importantly, if monitors think that a pending board decision will conflict with state law or regulations, or with the district's strategic improvement plan, they can issue an override notice with potential corrective actions for the board to take. They may also file a complaint with the Commissioner, who has 20 days to determine whether a violation is occurring. This authority means the monitors and Commissioner working together can slow down and even stop a decision if it has the potential to waste resources or hurt kids in the district. In the future, this might prevent a budget emergency like the one in early 2021, when ERCSD threatened to lay off more than 30 teachers.<sup>7</sup>

Finally, monitors would have the authority to: direct district officials to undergo relevant training (current monitors have recommended board members attend anti-racism training but cannot require it<sup>8</sup>), reject out-of-state travel, give input on academic and fiscal plans for the district, recommend cost-saving measures, help settle disputes between the board and superintendent, approve the board's selection of a superintendent, and review and amend the budget. The district would have to provide quarterly reports on the academic, fiscal, and operational status of the school to the monitors, and annual reports to the Commissioner and the board of regents.

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multi-million-dollar contract to a local nonprofit over the on-the-record objections of a current monitor. Though she specifically asked for more time and information to consider the contract, the monitor was ignored, and the board proceeded with the contract vote. The NYCLU is advising a local taxpayer on an appeal to the Commissioner of Education asking to overturn the contract award.

<sup>6</sup> *Id.* See also Tom Zambito, *The Journal News*, "NYCLU wants state Education Department to void \$15M East Ramapo schools contract" (Feb. 19, 2021), <https://www.lohud.com/story/news/2021/02/19/nyclu-challenges-east-ramapos-15-m-schools-contract-citing-conflict/4495852001/>.

<sup>7</sup> Tom Zambito, *The Journal News*, "East Ramapo district plans 3 teacher cuts, down from 33; will borrow to fix budget blunders" (March 3, 2021), <https://www.lohud.com/story/news/education/2021/03/03/east-ramapo-school-budget-layoffs/6904459002/>.

<sup>8</sup> Szuberla and Lowe, note 4 *supra* at 31.

At the same time, there are important protections in the bill to ensure that the Board can still operate and carry out its duties to support the students of the school district. The monitors are required to give advance written notice and explanations of their decisions. They may not override decisions made by the board related to collective bargaining. The Commissioner of Education retains the power to override decisions made by the monitors. And, finally, the bill does not alter any of the regular duties or responsibilities of the school district under existing law.

### **Conclusion**

Although the challenges in ERCSD will not go away overnight, there is a tremendous need to increase transparency and accountability, decrease fiscal irresponsibility and failure to adequately plan, and ensure that school board leadership is providing for *all* students in the district. It is past time for state officials to stand up for East Ramapo's students of color and ensure that they are receiving the quality education that they deserve. The NYCLU **supports** this bill and urges the legislature to pass it immediately.