

DRAFT LBDC

AN ACT to amend the education law, in relation to annual professional performance review plans

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 7

1 ~~Section 1.~~ Subdivision 2 of section 3012-c of the education law is
2 amended by adding a new paragraph 1 to read as follows:

3 1. (1) Notwithstanding any provision of law, rule or regulation to the
4 contrary, if a school district in a city with a population of one
5 million or more does not have an annual professional performance review
6 plan approved by the commissioner or determined pursuant to this para-
7 graph in place on or before the Wednesday following the first Friday in
8 May, such school district and the collective bargaining representatives
9 representing classroom teachers or building principals shall submit
10 written explanations of their respective positions regarding such issues
11 to the commissioner by such date.

12 (2) If such school district does not have an annual professional
13 performance review plan approved by the commissioner or determined
14 pursuant to this paragraph in place on or before the Wednesday preceding
15 the last Friday in May, the commissioner shall arbitrate such dispute
16 and shall hold no more than two days of hearings on the standards and
17 procedures necessary to implement an annual professional performance
18 review plan pursuant to this section. The parties may be heard either in
19 person, by counsel, or by such representatives as they may designate.
20 The parties may present, orally or in writing, statements of fact,
21 supporting witnesses and other evidence, and arguments. The commissioner
22 may require the production of such additional evidence from the parties
23 and shall provide, at the request of either party, that a full and

1 complete record be kept of any such hearings, the cost of such record to
2 be shared equally by the parties.

3 (3) Notwithstanding any other provision of law, rule or regulation to
4 the contrary, after such hearing, the commissioner shall render a final
5 and binding written determination on or before June first, prescribing
6 such standards and procedures necessary to implement an annual profes-
7 sional performance review plan pursuant to this section effective for
8 the following school year for a term to be determined by the commission-
9 er. Such determination shall be limited to the requirements of this
10 section. The commissioner shall specify in his or her determination the
11 basis for his or her findings, taking into consideration all relevant
12 factors, including the best interest of students. Such determination
13 shall be deemed to constitute the submission by such school district of
14 documentation demonstrating that it has fully implemented the standards
15 and procedures for conducting annual professional performance reviews of
16 classroom teachers and building principals in accordance with the
17 requirements of this section and final approval of such school
18 district's annual professional performance review plan in accordance
19 with paragraph k of this subdivision.

20 (4) No later than ten days after receipt of the commissioner's deter-
21 mination, the parties may make an application to the New York state
22 supreme court to vacate or modify the determination of the commissioner
23 pursuant to section seventy-five hundred eleven of the civil practice
24 law and rules. The court's review shall be limited to the grounds set
25 forth in such section. The commissioner's determination shall be deemed
26 to be final for the purpose of such proceeding. In no case shall the
27 filing or the pendency of an appeal delay the implementation of the
28 commissioner's determination.

1 ~~§ 2. This act shall take effect immediately.~~