

2015-16 NEW YORK STATE EXECUTIVE BUDGET

**THE EDUCATION OPPORTUNITY AGENDA
ARTICLE VII LEGISLATION**

Legislative Bill Drafting Commission
12575-01-5

S. -----
Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

BUDGBI

(Enacts into law major components of
legislation necessary to implement
the state budget for the 2015-2016
state fiscal year)

mayoral control and linkage

AN ACT

to amend the education law, in
relation to admission requirements
for graduate-level teacher education
programs, institution deregistration
and suspension, teacher registration
and continuing teacher education
requirements (Subpart A); to amend
the education law, in relation to
establishing the New York state
masters-in-education teacher incen-
tive scholarship program (Subpart
B); to amend the education law, in

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal:

s15 Addabbo	s49 Farley	s63 Kennedy	s40 Murphy	s10 Sanders
s46 Amedore	s17 Felder	s34 Klein	s54 Nozzolio	s23 Savino
s11 Avella	s02 Flanagan	s28 Krueger	s58 O'Mara	s41 Serino
s42 Bonacic	s55 Funke	s24 Lanza	s62 Ortt	s29 Serrano
s04 Boyle	s59 Gallivan	s39 Larkin	s60 Panepinto	s51 Seward
s44 Breslin	s12 Gianaris	s37 Latimer	s21 Parker	s09 Skelos
s38 Carlucci	s22 Golden	s01 LaValle	s13 Peralta	s26 Squadron
s14 Comrie	s47 Griffo	s52 Libous	s30 Perkins	s16 Stavisky
s03 Croci	s20 Hamilton	s45 Little	s61 Ranzenhofer	s35 Stewart-
s50 DeFrancisco	s06 Hannon	s05 Marcellino	s48 Ritchie	Cousins
s32 Diaz	s36 Hassell-	s43 Marchione	s33 Rivera	s53 Valesky
s18 Dilan	Thompson	s07 Martins	s56 Robach	s08 Venditto
s31 Espaillat	s27 Hoylman	s25 Montgomery	s19 Sampson	s57 Young

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

a049 Abbate	a045 Cymbrowitz	a135 Johns	a003 Murray	a016 Schimel
a092 Abinanti	a053 Davila	a077 Joyner	a133 Nojay	a140 Schimminger
a084 Arroyo	a034 DenDekker	a020 Kaminsky	a037 Nolan	a076 Seawright
a035 Aubry	a054 Dilan	a094 Katz	a130 Oaks	a087 Sepulveda
a120 Barclay	a081 Dinowitz	a074 Kavanagh	a069 O'Donnell	a065 Silver
a106 Barrett	a147 DiPietro	a142 Kearns	a051 Ortiz	a027 Simanowitz
a060 Barron	a115 Duprey	a040 Kim	a091 Otis	a052 Simon
a082 Benedetto	a004 Englebright	a131 Kolb	a132 Palmesano	a036 Simotas
a042 Bichotte	a109 Fahy	a105 Lalor	a002 Palumbo	a104 Skartados
a079 Blake	a071 Farrell	a013 Lavine	a088 Paulin	a099 Skoufis
a117 Blankenbush	a126 Finch	a134 Lawrence	a141 Peoples-	a022 Solages
a062 Borelli	a008 Fitzpatrick	a050 Lentol	Stokes	a114 Stec
a098 Brabenec	a124 Friend	a125 Lifton	a058 Perry	a110 Steck
a026 Braunstein	a095 Galef	a072 Linares	a059 Persaud	a127 Stirpe
a044 Brennan	a137 Gantt	a102 Lopez	a086 Pichardo	a112 Tedisco
a119 Brindisi	a007 Garbarino	a123 Lupardo	a089 Pretlow	a101 Tenney
a138 Bronson	a148 Giglio	a010 Lupinacci	a073 Quart	a001 Thiele
a046 Brook-Krasny	a080 Gjonaj	a121 Magee	a019 Ra	a061 Titone
a093 Buchwald	a066 Glick	a129 Magnarelli	a012 Raia	a031 Titus
a118 Butler	a023 Goldfeder	a064 Malliotakis	a006 Ramos	a055 Walker
a103 Cahill	a150 Goodell	a030 Markey	a078 Rivera	a146 Walter
a043 Camara	a075 Gottfried	a090 Mayer	a128 Roberts	a041 Weinstein
a145 Ceretto	a005 Graf	a108 McDonald	a056 Robinson	a024 Weprin
a033 Clark	a100 Gunther	a014 McDonough	a068 Rodriguez	a113 Woerner
a047 Colton	a139 Hawley	a017 McKevitt	a067 Rosenthal	a143 Wozniak
a032 Cook	a083 Heastie	a107 McLaughlin	a025 Rozic	a070 Wright
a144 Corwin	a028 Hevesi	a038 Miller	a116 Russell	a096 Zebrowski
a085 Crespo	a048 Hikind	a015 Montesano	a149 Ryan	
a122 Crouch	a018 Hooper	a136 Morelle	a009 Saladino	
a021 Curran	a097 Jaffee	a057 Mosley	a111 Santabarbara	
a063 Cusick	a011 Jean-Pierre	a039 Moya	a029 Scarborough	

1) Single House Bill (introduced and printed separately in either or
both houses). Uni-Bill (introduced simultaneously in both houses and printed
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2
signed copies of bill and 4 copies of memorandum in support (single house);
or 4 signed copies of bill and 8 copies of memorandum
in support (uni-bill).

relation to the appointment of teachers, principals, administrators, supervisors and all other members of the teaching and supervising staff of school districts (Subpart C); to amend the education law, in relation to takeover and restructuring of failing school districts (Subpart D); to amend the education law, in relation to disciplinary procedures for ineffective teaching or performance by a building principal or teacher (Subpart E); and to amend the education law, in relation to charter schools (Subpart F) (Part A); to amend the education law, in relation to annual professional performance reviews for classroom teachers and building principals (Part B); to amend chapter 91 of the laws of 2002 amending the education law and other laws relating to the reorganization of the New York city school construction authority, board of education and community boards, in relation to the effectiveness thereof; and to amend chapter 345 of the laws of 2009 amending the education law relating to the New York city board of education, chancellor, community councils and community superintendents, in relation to the effectiveness thereof (Part C); and to amend the education law, in relation to school aid increase linkage and to amend part A of chapter 57 of the laws of 2013 relating to school district eligibility for an increase in apportionment of school aid and implementation of standards for conducting annual professional performance reviews to determine teacher and principal effectiveness, in relation to apportionment of general support for public schools (Part D)

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

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2015-2016
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through D. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-
7 ing the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

12 PART A

13 Section 1. This act enacts into law components of legislation which
14 are necessary to implement the provisions relating to the prosecution of
15 misconduct by public officials. Each component is wholly contained with-
16 in a Subpart identified as Subparts A through F. The effective date for
17 each particular provision contained within such Subpart is set forth in
18 the last section of such Subpart. Any provision in any section contained
19 within a Subpart, including the effective date of the Subpart, which
20 makes a reference to a section "of this act", when used in connection
21 with that particular component, shall be deemed to mean and refer to the
22 corresponding section of the Subpart in which it is found. Section three
23 of this act sets forth the general effective date of this act.

24 SUBPART A

1 Section 1. The education law is amended by adding a new section 210-a
2 to read as follows:

3 § 210-a. Admission requirements for graduate-level teacher education
4 programs. Each institution registered by the department with graduate-
5 level teacher education programs shall adopt rigorous selection criteria
6 geared to predicting a candidate's academic success in its program,
7 including but not limited to, a minimum score on the graduate record
8 examination and/or a substantially equivalent admission examination, as
9 determined by the institution, and achievement of a cumulative grade
10 point average of 3.0 or higher in the candidate's undergraduate program.

11 § 2. The education law is amended by adding a new section 210-b to
12 read as follows:

13 § 210-b. Institution deregistration and suspension. 1. The department
14 shall de-register and suspend the operation of an institution if for
15 three consecutive academic years, fewer than fifty percent of its
16 students pass each examination that they have taken that is required for
17 certification. Provided, however, the institution may be permitted to
18 continue operations if the institution makes a written request to the
19 department to be permitted to continue operations and the commissioner
20 grants such a request and in writing states specific reasons for allow-
21 ing the institution to continue operations. For purposes of this para-
22 graph, students who have satisfactorily completed the institution's
23 program shall mean students who have met each educational requirement of
24 the program, excluding any institutional requirement that the student
25 pass each required New York State teacher certification examination for
26 a teaching certificate and/or school building leader examination for a
27 school building leader certificate in order to complete the program.
28 Students satisfactorily meeting each educational requirement may include

1 students who earn a degree or students who complete each educational
2 requirement without earning a degree. When making such a determination,
3 the department shall consider the performance on each certification
4 examination of those students completing an examination not more than
5 three years before the end of the academic year in which the program is
6 completed or not later than the September thirtieth following the end of
7 such academic year, where academic year is defined as July first through
8 June thirtieth, and shall consider only the highest score of individuals
9 taking a test more than once.

10 2. The institution may submit an appeal as prescribed by the commis-
11 sioner in regulations. A de-registered institution shall cease oper-
12 ations and shall not educate any students while awaiting the commission-
13 er's decision on their application for re-registration.

14 3. The department may also, as prescribed by the commissioner in regu-
15 lations, conduct expedited registration reviews for institutions that
16 have demonstrated poor performance on student outcomes.

17 § 3. Section 3006 of the education law is amended by adding a new
18 subdivision 3 to read as follows:

19 3. Registration. a. Commencing with the two thousand fifteen--two
20 thousand sixteen school year, any holder of a teaching certificate in
21 the classroom teaching service, teaching assistant certificate, or
22 educational leadership certificate that is valid for life as prescribed
23 by the commissioner in regulations shall be required to register with
24 the department every five years in accordance with regulations of the
25 commissioner. Such regulations shall prescribe the date or dates by
26 which applications for initial registration must be submitted and may
27 provide for staggered initial registration and/or rolling re-registra-

1 tion so that re-registrations are distributed as equally as possible
2 throughout the year.

3 b. The department shall post an application for registration on its
4 website. An application for registration and the required registration
5 fee shall be submitted together with or as part of the application for a
6 registration certificate. A person initially certified or resuming prac-
7 tice after a lapse in registration during the last two years of a five-
8 year registration period shall receive a prorated refund of one-fifth of
9 the total registration fee for each full year of the registration period
10 that elapsed prior to the date of registration. Except as otherwise
11 provided in this section, the department shall renew the registration of
12 each certificate holder upon receipt of a proper application, on a form
13 prescribed by the department, and the registration fee. Any certificate
14 holder who fails to register by the beginning of the appropriate regis-
15 tration period shall be required to pay an additional fee for the late
16 filing of ten dollars for each month that registration has been delayed.
17 No licensee resuming practice after a lapse of registration shall be
18 permitted to practice without actual possession of the registration
19 certificate.

20 c. Any certificate holder who is not engaging in the practice of his
21 or her profession in this state and does not desire to register shall so
22 advise the department. Such certificate holder shall not be required to
23 pay an additional fee for failure to register at the beginning of the
24 registration period.

25 d. Certificate holders shall notify the department of any change of
26 name or mailing address within thirty days of such change. Failure to
27 register or provide such notice within one hundred eighty days of such

1 change shall constitute grounds for moral character review under subdi-
2 vision seven of section three hundred five of this title.

3 e. The fee for replacement of a lost registration certificate or
4 license or for registration of an additional office shall be ten
5 dollars.

6 f. An additional fee of twenty-five dollars shall be charged for the
7 registration of any applicant whose check has been dishonored, or in the
8 case of a credit card payment, where the payment is contested and is not
9 honored by the credit card company.

10 § 4. The education law is amended by adding a new section 3006-a to
11 read as follows:

12 § 3006-a. Registration and continuing teacher education requirements
13 for holders of professional certificates in the classroom teaching
14 service, holders of level III teaching assistant certificates, holders
15 of professional certificates in the educational leadership service. 1.

16 a. Each holder of a professional certificate in the classroom teaching
17 service, holder of a level III teaching assistant certificate and holder
18 of a professional certificate in the educational leadership service
19 shall be required to register every five years with the department to
20 practice in the state and shall comply with the provisions of the
21 continuing teacher education requirements set forth in this section.

22 b. Any of the certified individuals described in paragraph a of this
23 section who do not satisfy the continuing teacher education requirements
24 shall not practice until they have met such requirements, have paid all
25 applicable fees, and have been issued a registration or conditional
26 registration certificate.

27 c. Holders of a professional certificate in the classroom teaching
28 service, holders of a level III teaching assistance certificate and

1 holders of a professional certificate in the educational leadership
2 service and any other certified individual required by the commissioner
3 to register triennially shall be exempt from the continuing teacher
4 education requirement for the five-year registration period during which
5 they are first licensed by the department. In accordance with the intent
6 of this section, adjustments to the continuing teacher education
7 requirement may be granted by the department for reasons of health
8 certified by a physician, for extended active duty with armed forces of
9 the United States, or for other good cause acceptable to the department
10 which may prevent compliance.

11 d. Certificate holders who are not practicing as a teacher, teaching
12 assistant or educational leader in a school district or board of cooper-
13 ative educational services in this state shall be exempt from the
14 continuing teacher education requirement upon the filing of a written
15 statement with the department declaring such status. Any holder of a
16 professional certificate in the classroom teaching service, holder of a
17 level III teaching assistant certificate and holder of a professional
18 certificate in the educational leadership service who resumes practice
19 during the five-year registration period shall notify the department
20 prior to resuming practice and shall pay the current continuing teacher
21 education fee and shall meet such continuing teacher education require-
22 ments as prescribed in regulations of the commissioner.

23 2. a. During each five-year registration period beginning on or after
24 July first, two thousand fifteen, an applicant for registration shall
25 successfully complete a minimum of 100 hours of continuing teacher
26 education, as defined by the commissioner. The department shall issue
27 rigorous standards for courses and programs that shall qualify as
28 continuing teacher education pursuant to this section.

1 b. A certified individual who has not satisfied the continuing teacher
2 education requirements shall not be issued a five-year registration
3 certificate by the department and shall not practice unless and until a
4 registration or conditional registration certificate is issued as
5 provided in subdivision three of this section. For purposes of this
6 subdivision, "continuing teacher education requirements" shall mean
7 formal programs of learning which contribute to growth in the profes-
8 sional knowledge and professional competence of the certificate holder
9 which meet the standards prescribed by regulations of the commissioner.
10 To fulfill the continuing teacher education requirement, programs must
11 be taken from sponsors approved by the department, pursuant to the regu-
12 lations of the commissioner.

13 3. The department, in its discretion, may issue a conditional regis-
14 tration to a teacher, teaching assistant or educational leader in a
15 school district or BOCES in this state who fails to meet the continuing
16 education requirements established in subdivision two of this section
17 but who agrees to make up any deficiencies and take any additional
18 education which the department may require. The fee for such a condi-
19 tional registration shall be the same as, and in addition to, the fee
20 for the triennial registration. The duration of such conditional regis-
21 tration shall be determined by the department. Any holder of a profes-
22 sional certificate in the classroom teaching service, holder of a level
23 III teaching assistant certificate or holder of a professional certif-
24 icate in the educational leadership service and any other certified
25 individual required by the commissioner to register triennially who is
26 notified of the denial of registration for failure to submit evidence,
27 satisfactory to the department, of required continuing education and who
28 practices without such registration, shall be subject to moral character

1 review under subdivision seven of section three hundred five of this
2 title.

3 4. The registration fee shall be determined by the regents, and shall
4 be payable on or before the first day of each triennial registration
5 period.

6 § 5. This act shall take effect July 1, 2015, provided that the
7 authority of the board of regents to adopt regulations necessary to
8 implement the provisions of this act on such effective date shall take
9 effect immediately.

10 SUBPART B

11 Section 1. The education law is amended by adding a new section 669-f
12 to read as follows:

13 § 669-f. New York state masters-in-education teacher incentive schol-
14 arship program. 1. Eligibility. Students who are matriculated in an
15 approved master's degree in education program at a New York state public
16 institution of higher education leading to a career as a teacher in
17 public elementary or secondary education shall be eligible for an award
18 under this section, provided the applicant: (a) earned an undergraduate
19 degree from a college located in New York state; (b) was a New York
20 state resident while earning such undergraduate degree; (c) achieved
21 academic excellence as an undergraduate student, as defined by the
22 corporation in regulation; (d) enrolls in full-time study in an approved
23 master's degree in education program at a New York state public institu-
24 tion of higher education leading to a career as a teacher in public
25 elementary or secondary education; (e) signs a contract with the corpo-
26 ration agreeing to teach in a classroom setting on a full-time basis for

1 five years in a school located within New York state providing public
2 elementary or secondary education recognized by the board of regents or
3 the university of the state of New York, including charter schools
4 authorized pursuant to article fifty-six of this chapter; and (f)
5 complies with the applicable provisions of this article and all require-
6 ments promulgated by the corporation for the administration of the
7 program.

8 2. Within amounts appropriated therefor, awards shall be granted to
9 applicants that the corporation has certified are eligible to receive
10 such awards. Up to five hundred awards may be granted to new recipients
11 annually. Such awards shall be granted upon successful completion of
12 each term, as defined by the corporation.

13 3. An award shall entitle the recipient to annual payments for not
14 more than two academic years of full-time graduate study leading to
15 certification as an elementary or secondary classroom teacher.

16 4. The corporation shall grant such awards in an amount equal to the
17 annual tuition charged to state resident students attending a graduate
18 program full-time at the state university of New York, or actual tuition
19 charged, whichever is less; provided, however, (i) a student who
20 receives educational grants and/or scholarships that cover the student's
21 full cost of attendance shall not be eligible for an award under this
22 program; (ii) for a student who receives educational grants and/or scho-
23 larships that cover less than the student's full cost of attendance,
24 such grants and/or scholarships shall not be deemed duplicative of this
25 program and may be held concurrently with an award under this program,
26 provided that the combined benefits do not exceed the student's full
27 cost of attendance; and (iii) an award under this program shall be
28 applied to tuition after the application of all other educational grants

1 and scholarships limited to tuition and shall be reduced in an amount
2 equal to such educational grants and/or scholarships. Upon notification
3 of an award under this program, the institution shall defer the amount
4 of tuition equal to the award. No award shall be final until the recipi-
5 ent's successful completion of a term has been certified by the institu-
6 tion. A recipient of an award under this program shall not be eligible
7 for an award under the New York state math and science teaching incen-
8 tive program.

9 5. The corporation shall convert to a student loan the full amount of
10 the award granted pursuant to this section, plus interest, according to
11 a schedule to be determined by the corporation if: (a) two years after
12 the completion of the degree program and receipt of initial certif-
13 ication it is found that a recipient is not teaching in a public school
14 located within New York state providing elementary or secondary educa-
15 tion recognized by the board of regents or the university of the state
16 of New York, including charter schools authorized pursuant to article
17 fifty-six of this chapter; (b) a recipient has not taught in a public
18 school located within New York state providing elementary or secondary
19 education recognized by the board of regents or the university of the
20 state of New York, including charter schools authorized pursuant to
21 article fifty-six of this chapter for five of the seven years after the
22 completion of the graduate degree program and receipt of initial certif-
23 ication; (c) a recipient fails to complete his or her graduate degree
24 program in education; (d) a recipient fails to receive or maintain his
25 or her teaching certificate or license in New York state; or (e) a
26 recipient fails to respond to requests by the corporation for the status
27 of his or her academic or professional progress. The terms and condi-
28 tions of this subdivision shall be deferred for any interruption in

1 graduate study or employment as established by the rules and regulations
2 of the corporation. Any obligation to comply with such provisions as
3 outlined in this section shall be cancelled upon the death of the recip-
4 ient. Notwithstanding any provisions of this subdivision to the contra-
5 ry, the corporation is authorized to promulgate rules and regulations to
6 provide for the waiver or suspension of any financial obligation which
7 would involve extreme hardship.

8 6. The corporation is authorized to promulgate rules and regulations,
9 and may promulgate emergency regulations, necessary for the implementa-
10 tion of the provisions of this section including, but not limited to,
11 the criteria for the provision of awards on a competitive basis, and the
12 rate of interest charged for repayment of the student loan.

13 § 2. This act shall take effect immediately and shall be deemed to
14 have been in full force and effect on and after April 1, 2015.

15 SUBPART C

16 Section 1. Paragraphs (a) and (b) of subdivision 1 of section 2509 of
17 the education law, paragraph (a) as amended by chapter 551 of the laws
18 of 1976, and paragraph (b) as amended by chapter 468 of the laws of
19 1975, are amended to read as follows:

20 (a) i. Teachers and all other members of the teaching staff[,]
21 appointed prior to July first, two thousand fifteen and authorized by
22 section twenty-five hundred three of this article, shall be appointed by
23 the board of education, upon the recommendation of the superintendent of
24 schools, for a probationary period of three years, except that in the
25 case of a teacher who has rendered satisfactory service as a regular
26 substitute for a period of two years or as a seasonally licensed per

1 session teacher of swimming in day schools who has served in that capac-
2 ity for a period of two years and has been appointed to teach the same
3 subject in day schools on an annual salary, the probationary period
4 shall be limited to one year; provided, however, that in the case of a
5 teacher who has been appointed on tenure in another school district
6 within the state, the school district where currently employed, or a
7 board of cooperative educational services, and who was not dismissed
8 from such district or board as a result of charges brought pursuant to
9 subdivision one of section three thousand twenty-a of this chapter, the
10 probationary period shall not exceed two years. The service of a person
11 appointed to any of such positions may be discontinued at any time
12 during such probationary period, on the recommendation of the super-
13 intendent of schools, by a majority vote of the board of education. Each
14 person who is not to be recommended for appointment on tenure shall be
15 so notified by the superintendent of schools in writing not later than
16 sixty days immediately preceding the expiration of his probationary
17 period.

18 ii. Notwithstanding any other provision of law or regulation to the
19 contrary, teachers and all other members of the teaching staff appointed
20 on or after July first, two thousand fifteen and authorized by section
21 twenty-five hundred three of this article, shall be appointed by the
22 board of education, upon the recommendation of the superintendent of
23 schools, for a probationary period of five years, except that in the
24 case of a teacher who has rendered satisfactory service as a regular
25 substitute for a period of two years or as a seasonally licensed per
26 session teacher of swimming in day schools who has served in that capac-
27 ity for a period of two years and has been appointed to teach the same
28 subject in day schools on an annual salary, the teacher shall be

1 appointed for a probationary period of three years; provided, however,
2 that in the case of a teacher who has been appointed on tenure in anothe-
3 er school district within the state, the school district where currently
4 employed, or a board of cooperative educational services, and who was
5 not dismissed from such district or board as a result of charges brought
6 pursuant to subdivision one of section three thousand twenty-a of this
7 chapter, the teacher shall be appointed for a probationary period of
8 four years. The service of a person appointed to any of such positions
9 may be discontinued at any time during such probationary period, on the
10 recommendation of the superintendent of schools, by a majority vote of
11 the board of education. Each person who is not to be recommended for
12 appointment on tenure shall be so notified by the superintendent of
13 schools in writing not later than sixty days immediately preceding the
14 expiration of his/her probationary period.

15 (b) i. Administrators, directors, supervisors, principals and all
16 other members of the supervising staff, except associate, assistant and
17 other superintendents[,] appointed prior to July first, two thousand
18 fifteen and authorized by section twenty-five hundred three of this
19 article, shall be appointed by the board of education, upon the recom-
20 mendation of the superintendent of schools for a probationary period of
21 three years. The service of a person appointed to any of such positions
22 may be discontinued at any time during the probationary period on the
23 recommendation of the superintendent of schools, by a majority vote of
24 the board of education.

25 ii. Notwithstanding any other provision of law or regulation to the
26 contrary, administrators, directors, supervisors, principals and all
27 other members of the supervising staff, except associate, assistant and
28 other superintendents, appointed on or after July first, two thousand

1 fifteen and authorized by section twenty-five hundred three of this
2 article, shall be appointed by the board of education, upon the recom-
3 mendation of the superintendent of schools for a probationary period of
4 five years. The service of a person appointed to any of such positions
5 may be discontinued at any time during the probationary period on the
6 recommendation of the superintendent of schools, by a majority vote of
7 the board of education.

8 § 2. Subdivision 2 of section 2509 of the education law, as amended by
9 section 6 of part A of chapter 57 of the laws of 2007, is amended to
10 read as follows:

11 2. a. At the expiration of the probationary term of any persons
12 appointed for such term prior to July first, two thousand fifteen, or
13 within six months prior thereto, the superintendent of schools shall
14 make a written report to the board of education recommending for
15 appointment on tenure those persons who have been found competent, effi-
16 cient and satisfactory[, consistent with any applicable rules of the
17 board of regents adopted pursuant to section three thousand twelve-b of
18 this chapter]. By a majority vote the board of education may then
19 appoint on tenure any or all of the persons recommended by the super-
20 intendent of schools. Such persons and all others employed in the teach-
21 ing service of the schools of such school district who have served the
22 full probationary period shall hold their respective positions during
23 good behavior and efficient and competent service, and shall not be
24 removable except for cause after a hearing as provided by section three
25 thousand twenty-a of [such law] this chapter. Failure to maintain
26 certification as required by this chapter and the regulations of the
27 commissioner of education shall constitute cause for removal.

1 b. For persons appointed on or after July first, two thousand fifteen,
2 at the expiration of the probationary term of any persons appointed for
3 such term, or within six months prior thereto, the superintendent of
4 schools shall make a written report to the board of education recommend-
5 ing for appointment on tenure those persons who have been found compe-
6 tent, efficient and satisfactory and in the case of a classroom teacher
7 or building principal, who have received composite annual professional
8 performance review ratings pursuant to three thousand twelve-c of this
9 chapter, of either effective or highly effective in each of the five
10 preceding years. By a majority vote, the board of education may then
11 appoint on tenure any or all of the persons recommended by the super-
12 intendent of schools. Notwithstanding any other provision of law, rule
13 or regulation to the contrary, if no affirmative action is taken by the
14 board of education to terminate a classroom teacher or building princi-
15 pal, or to approve or deny tenure to a classroom teacher or building
16 principal at the expiration of the probationary period, the classroom
17 teacher or building principal shall remain in probationary status until
18 the end of the school year in which such teacher or principal has
19 received such ratings of effective or highly effective for the five
20 preceding school years, during which time a board of education shall
21 either discontinue the services of such person, deny tenure or approve
22 tenure for those classroom teachers or building principals who otherwise
23 have been found competent, efficient and satisfactory. Provided, howev-
24 er, that the board of education may grant tenure contingent upon a
25 classroom teacher's or building principal's receipt of such a rating of
26 effective or highly effective in the fifth year, and if such contingency
27 is not met, the grant of tenure shall be void and unenforceable and the
28 teacher's or principal's probationary period shall be extended in

1 accordance with this subdivision. Such persons who have been recommended
2 for tenure and all others employed in the teaching service of the
3 schools of such school district who have served the full probationary
4 period as extended pursuant to this subdivision shall hold their respec-
5 tive positions during good behavior and efficient and competent service,
6 and shall not be removable except for cause after a hearing as provided
7 by section three thousand twenty-a of this chapter. Failure to maintain
8 certification as required by this chapter and the regulations of the
9 commissioner of education shall constitute cause for removal.

10 § 3. Subdivisions 1, 5 and 6 of section 2573 of the education law,
11 subdivision 1 as amended by chapter 732 of the laws of 1971, paragraph
12 (a) of subdivision 1 as amended by chapter 640 of the laws of 1983,
13 paragraph (b) of subdivision 1 as amended by chapter 468 of the laws of
14 1975, subdivision 5 and 6 as amended by section 7 of part A of chapter
15 57 of the laws of 2007, are amended to read as follows:

16 1. (a) i. Teachers and all other members of the teaching staff,
17 appointed prior to July first, two thousand fifteen and authorized by
18 section twenty-five hundred fifty-four of this article, shall be
19 appointed by the board of education, upon the recommendation of the
20 superintendent of schools, for a probationary period of three years,
21 except that in the case of a teacher who has rendered satisfactory
22 service as a regular substitute for a period of two years or as a
23 seasonally licensed per session teacher of swimming in day schools who
24 has served in that capacity for a period of two years and has been
25 appointed to teach the same subject in day schools on an annual salary,
26 the probationary period shall be limited to one year; provided, however,
27 that in the case of a teacher who has been appointed on tenure in anothe-
28 er school district within the state, the school district where currently

1 employed, or a board of cooperative educational services, and who was
2 not dismissed from such district or board as a result of charges brought
3 pursuant to subdivision one of section three thousand twenty-a of this
4 chapter, the probationary period shall not exceed two years; provided,
5 however, that in cities with a population of one million or more, a
6 teacher appointed under a newly created license, for teachers of reading
7 and of the emotionally handicapped, to a position which the teacher has
8 held for at least two years prior to such appointment while serving on
9 tenure in another license area who was not dismissed as a result of
10 charges brought pursuant to subdivision one of section three thousand
11 twenty-a of this chapter, the probationary period shall be one year. The
12 service of a person appointed to any of such positions may be discontin-
13 ued at any time during such probationary period, on the recommendation
14 of the superintendent of schools, by a majority vote of the board of
15 education. Each person who is not to be recommended for appointment on
16 tenure shall be so notified by the superintendent of schools in writing
17 not later than sixty days immediately preceding the expiration of his
18 probationary period. In city school districts having a population of
19 four hundred thousand or more, persons with licenses obtained as a
20 result of examinations announced subsequent to the twenty-second day of
21 May, nineteen hundred sixty-nine appointed upon conditions that all
22 announced requirements for the position be fulfilled within a specified
23 period of time, shall not acquire tenure unless and until such require-
24 ments have been completed within the time specified for the fulfillment
25 of such requirements, notwithstanding the expiration of any probationary
26 period. In all other city school districts subject to the provisions of
27 this article, failure to maintain certification as required by this
28 article and by the regulations of the commissioner of education shall be

1 cause for removal within the meaning of subdivision five of this
2 section.

3 ii. Teachers and all other members of the teaching staff appointed on
4 or after July first, two thousand fifteen and authorized by section
5 twenty-five hundred fifty-four of this article, shall be appointed by
6 the board of education, upon the recommendation of the superintendent of
7 schools, for a probationary period of five years, except that in the
8 case of a teacher who has rendered satisfactory service as a regular
9 substitute for a period of two years or as a seasonally licensed per
10 session teacher of swimming in day schools who has served in that capac-
11 ity for a period of two years and has been appointed to teach the same
12 subject in day schools on an annual salary, the teacher shall be
13 appointed for a probationary period of three years; provided, however,
14 that in the case of a teacher who has been appointed on tenure in anoth-
15 er school district within the state, the school district where currently
16 employed, or a board of cooperative educational services, and who was
17 not dismissed from such district or board as a result of charges brought
18 pursuant to subdivision one of section three thousand twenty-a of this
19 chapter, the teacher shall be appointed for a probationary period of
20 four years; provided, however, that in cities with a population of one
21 million or more, a teacher appointed under a newly created license, for
22 teachers of reading and of the emotionally handicapped, to a position
23 which the teacher has held for at least two years prior to such appoint-
24 ment while serving on tenure in another license area who was not
25 dismissed as a result of charges brought pursuant to subdivision one of
26 section three thousand twenty-a of this chapter, the teacher shall be
27 appointed for a probationary period of three years. The service of a
28 person appointed to any of such positions may be discontinued at any

1 time during such probationary period, on the recommendation of the
2 superintendent of schools, by a majority vote of the board of education.
3 Each person who is not to be recommended for appointment on tenure shall
4 be so notified by the superintendent of schools in writing not later
5 than sixty days immediately preceding the expiration of his probationary
6 period. In all city school districts subject to the provisions of this
7 article, failure to maintain certification as required by this article
8 and by the regulations of the commissioner of education shall be cause
9 for removal within the meaning of subdivision five of this section.

10 (b) i. Administrators, directors, supervisors, principals and all
11 other members of the supervising staff, except executive directors,
12 associate, assistant, district and community superintendents and examin-
13 ers, appointed prior to July first, two thousand fifteen and authorized
14 by section twenty-five hundred fifty-four of this article, shall be
15 appointed by the board of education, upon the recommendation of the
16 superintendent or chancellor of schools, for a probationary period of
17 three years. The service of a person appointed to any of such positions
18 may be discontinued at any time during the probationary period on the
19 recommendation of the superintendent of schools, by a majority vote of
20 the board of education.

21 ii. Administrators, directors, supervisors, principals and all other
22 members of the supervising staff, except executive directors, associate,
23 assistant, district and community superintendents and examiners,
24 appointed on or after July 1, 2015 and authorized by section twenty-five
25 hundred fifty-four of this article, shall be appointed by the board of
26 education, upon the recommendation of the superintendent or chancellor
27 of schools, for a probationary period of five years provided that such
28 probationary period may be extended in accordance with paragraph (b) of

1 subdivision five of this section. The service of a person appointed to
2 any of such positions may be discontinued at any time during the proba-
3 tionary period on the recommendation of the superintendent of schools,
4 by a majority vote of the board of education.

5 5. (a) At the expiration of the probationary term of any persons
6 appointed for such term prior to July first, two thousand fifteen, the
7 superintendent of schools shall make a written report to the board of
8 education recommending for permanent appointment those persons who have
9 been found competent, efficient and satisfactory[, consistent with any
10 applicable rules of the board of regents adopted pursuant to section
11 three thousand twelve-b of this chapter]. Such persons and all others
12 employed in the teaching, service of the schools of a city, who have
13 served the full probationary period, shall hold their respective posi-
14 tions during good behavior and efficient and competent service, and
15 shall not be removable except for cause after a hearing as provided by
16 section three thousand twenty-a of this chapter.

17 (b) At the expiration of the probationary term of any persons
18 appointed for such term on or after July first, two thousand fifteen,
19 the superintendent of schools shall make a written report to the board
20 of education recommending for permanent appointment those persons who
21 have been found competent, efficient and satisfactory and, in the case
22 of a classroom teacher or building principal, who have received compos-
23 ite annual professional performance review ratings pursuant to section
24 three thousand twelve-c of this chapter, of either effective or highly
25 effective in each of the five preceding years. Notwithstanding any other
26 provision of law, rule or regulation to the contrary, if no affirmative
27 action is taken by the board of education to terminate a classroom
28 teacher or building principal, or to approve or deny tenure to a class-

1 room teacher or building principal at the expiration of the probationary
2 period, the classroom teacher or building principal shall remain in
3 probationary status until the end of the school year in which such
4 teacher or principal has received such ratings of effective or highly
5 effective for the five preceding school years, during which time a board
6 of education shall either discontinue the services of such person, deny
7 tenure or approve tenure for those classroom teachers or building prin-
8 cipals who otherwise have been found competent, efficient and satisfac-
9 tory. Provided, however, that the board of education may grant tenure
10 contingent upon a classroom teacher's or building principal's receipt of
11 such a rating of effective or highly effective in the fifth year, and if
12 such contingency is not met, the grant of tenure shall be void and unen-
13 forceable and the teacher's or principal's probationary period shall be
14 extended in accordance with this subdivision. Such persons who have been
15 recommended for tenure and all others employed in the teaching service
16 of the schools of such school district who have served the full proba-
17 tionary period as extended pursuant to this subdivision shall hold their
18 respective positions during good behavior and efficient and competent
19 service, and shall not be removable except for cause after a hearing as
20 provided by section three thousand twenty-a of this chapter. Failure to
21 maintain certification as required by this chapter and the regulations
22 of the commissioner of education shall constitute cause for removal.

23 6. (a) In a city having a population of four hundred thousand or more,
24 at the expiration of the probationary term of any persons appointed for
25 such term prior to July first, two thousand fifteen, the superintendent
26 of schools shall make a written report to the board of education recom-
27 mending for permanent appointment those persons who have been found
28 satisfactory[, consistent with any applicable rules of the board of

1 regents adopted pursuant to section three thousand twelve-b of this
2 chapter], and such board of education shall immediately thereafter issue
3 to such persons permanent certificates of appointment. Such persons and
4 all others employed in the teaching service of the schools of such city,
5 who have served the full probationary period shall receive permanent
6 certificates to teach issued to them by the certificating authority,
7 except as otherwise provided in subdivision ten-a of this section, and
8 shall hold their respective positions during good behavior and satisfac-
9 tory teaching service, and shall not be removable except for cause after
10 a hearing as provided by section three thousand twenty-a of this chap-
11 ter.

12 (b) At the expiration of the probationary term of any persons
13 appointed for such term on or after July first, two thousand fifteen,
14 the superintendent of schools shall make a written report to the board
15 of education recommending for permanent appointment those persons who
16 have been found competent, efficient and satisfactory and, in the case
17 of a classroom teacher or building principal, who have received compos-
18 ite annual professional performance review ratings pursuant to section
19 three thousand twelve-c of this chapter, of either effective or highly
20 effective in each of the five preceding years. Notwithstanding any other
21 provision of law, rule or regulation to the contrary, if no affirmative
22 action is taken by the board of education to terminate a classroom
23 teacher or building principal, or to approve or deny tenure to a class-
24 room teacher or building principal at the expiration of the probationary
25 period, the classroom teacher or building principal shall remain in
26 probationary status until the end of the school year in which such
27 teacher or principal has received such ratings of effective or highly
28 effective for the five preceding school years, during which time a board

1 of education shall either discontinue the services of such person, deny
2 tenure or approve tenure for those classroom teachers or building prin-
3 cipals who otherwise have been found competent, efficient and satisfac-
4 tory. Provided, however, that the board of education may grant tenure
5 contingent upon a classroom teacher's or building principal's receipt of
6 such a rating of effective or highly effective in the fifth year, and if
7 such contingency is not met, the grant of tenure shall be void and unen-
8 forceable and the teacher's or principal's probationary period shall be
9 extended in accordance with this subdivision. Such persons who have been
10 recommended for tenure and all others employed in the teaching service
11 of the schools of such school district who have served the full proba-
12 tionary period as extended pursuant to this subdivision shall hold their
13 respective positions during good behavior and efficient and competent
14 service, and shall not be removable except for cause after a hearing as
15 provided by section three thousand twenty-a of this chapter. Failure to
16 maintain certification as required by this chapter and the regulations
17 of the commissioner of education shall constitute cause for removal.

18 § 4. Section 3012 of the education law, the section heading as amended
19 by chapter 358 of the laws of 1978, subdivision 1 as amended by chapter
20 442 of the laws of 1980, paragraph (a) of subdivision 1 as amended by
21 chapter 737 of the laws of 1992, subdivision 2 as amended by section 8
22 of part A of chapter 57 of the laws of 2007, subdivision 3 as added by
23 chapter 859 of the laws of 1955 and as renumbered by chapter 717 of the
24 laws of 1970, is amended to read as follows:

25 § 3012. Tenure: certain school districts. 1. (a) i. Teachers and all
26 other members of the teaching staff of school districts, including
27 common school districts and/or school districts employing fewer than
28 eight teachers, other than city school districts, who are appointed

1 prior to July first, two thousand fifteen, shall be appointed by the
2 board of education, or the trustees of common school districts, upon the
3 recommendation of the superintendent of schools, for a probationary
4 period of three years, except that in the case of a teacher who has
5 rendered satisfactory service as a regular substitute for a period of
6 two years or as a seasonally licensed per session teacher of swimming in
7 day schools who has served in that capacity for a period of two years
8 and has been appointed to teach the same subject in day schools, on an
9 annual salary, the probationary period shall be limited to one year;
10 provided, however, that in the case of a teacher who has been appointed
11 on tenure in another school district within the state, the school
12 district where currently employed, or a board of cooperative educational
13 services, and who was not dismissed from such district or board as a
14 result of charges brought pursuant to subdivision one of section three
15 thousand twenty-a of this [chapter] article, the probationary period
16 shall not exceed two years. The service of a person appointed to any of
17 such positions may be discontinued at any time during such probationary
18 period, on the recommendation of the superintendent of schools, by a
19 majority vote of the board of education or the trustees of a common
20 school district.

21 ii. Teachers and all other members of the teaching staff of school
22 districts, including common school districts and/or school districts
23 employing fewer than eight teachers, other than city school districts,
24 who are appointed on or after July first, two thousand fifteen, shall be
25 appointed by the board of education, or the trustees of common school
26 districts, upon the recommendation of the superintendent of schools, for
27 a probationary period of five years, except that in the case of a teach-
28 er who has rendered satisfactory service as a regular substitute for a

1 period of two years or as a seasonally licensed per session teacher of
2 swimming in day schools who has served in that capacity for a period of
3 two years and has been appointed to teach the same subject in day
4 schools, on an annual salary, the teacher shall be appointed for a
5 probationary period of three years; provided, however, that in the case
6 of a teacher who has been appointed on tenure in another school district
7 within the state, the school district where currently employed, or a
8 board of cooperative educational services, and who was not dismissed
9 from such district or board as a result of charges brought pursuant to
10 subdivision one of section three thousand twenty-a of this article, the
11 teacher shall be appointed for a probationary period of four years. The
12 service of a person appointed to any of such positions may be discontin-
13 ued at any time during such probationary period, on the recommendation
14 of the superintendent of schools, by a majority vote of the board of
15 education or the trustees of a common school district.

16 (b) i. Principals, administrators, supervisors and all other members
17 of the supervising staff of school districts, including common school
18 districts and/or school districts employing fewer than eight teachers,
19 other than city school districts, who are appointed prior to July first,
20 two thousand fifteen, shall be appointed by the board of education, or
21 the trustees of a common school district, upon the recommendation of the
22 superintendent of schools for a probationary period of three years. The
23 service of a person appointed to any of such positions may be discontin-
24 ued at any time during the probationary period on the recommendation of
25 the superintendent of schools, by a majority vote of the board of educa-
26 tion or the trustees of a common school district.

27 ii. Principals, administrators, supervisors and all other members of
28 the supervising staff of school districts, including common school

1 districts and/or school districts employing fewer than eight teachers,
2 other than city school districts, who are appointed on or after July
3 first, two thousand fifteen, shall be appointed by the board of educa-
4 tion, or the trustees of a common school district, upon the recommenda-
5 tion of the superintendent of schools for a probationary period of five
6 years. The service of a person appointed to any of such positions may be
7 discontinued at any time during the probationary period on the recommen-
8 dation of the superintendent of schools, by a majority vote of the board
9 of education or the trustees of a common school district.

10 (c) Any person previously appointed to tenure or a probationary period
11 pursuant to the provisions of former section three thousand thirteen of
12 this [chapter] article shall continue to hold such position and be
13 governed by the provisions of this section notwithstanding any contrary
14 provision of law.

15 2. (a) At the expiration of the probationary term of a person
16 appointed for such term prior to July first, two thousand fifteen,
17 subject to the conditions of this section, the superintendent of schools
18 shall make a written report to the board of education or the trustees of
19 a common school district recommending for appointment on tenure those
20 persons who have been found competent, efficient and satisfactory[,
21 consistent with any applicable rules of the board of regents adopted
22 pursuant to section three thousand twelve-b of this article]. Such
23 persons, and all others employed in the teaching service of the schools
24 of such union free school district, common school district and/or school
25 district employing fewer than eight teachers, who have served the proba-
26 tionary period as provided in this section, shall hold their respective
27 positions during good behavior and efficient and competent service, and
28 shall not be removed except for any of the following causes, after a

1 hearing, as provided by section three thousand twenty-a of [such law]
2 this article: (a) insubordination, immoral character or conduct unbe-
3 coming a teacher; (b) inefficiency, incompetency, physical or mental
4 disability, or neglect of duty; (c) failure to maintain certification as
5 required by this chapter and by the regulations of the commissioner.
6 Each person who is not to be recommended for appointment on tenure,
7 shall be so notified by the superintendent of schools in writing not
8 later than sixty days immediately preceding the expiration of his proba-
9 tionary period.

10 (b) At the expiration of the probationary term of a person appointed
11 for such term on or after July first, two thousand fifteen, subject to
12 the conditions of this section, the superintendent of schools shall make
13 a written report to the board of education or the trustees of a common
14 school district recommending for appointment on tenure those persons who
15 have been found competent, efficient and satisfactory and, in the case
16 of a classroom teacher or building principal, who have received compos-
17 ite annual professional performance review ratings pursuant to section
18 three thousand twelve-c of this article, of either effective or highly
19 effective in each of the five preceding years. Notwithstanding any other
20 provision of law, rule or regulation to the contrary, if no affirmative
21 action is taken by the trustees or board of education to terminate a
22 classroom teacher or building principal, or to approve or deny tenure to
23 a classroom teacher or building principal at the expiration of the
24 probationary period, the classroom teacher or building principal shall
25 remain in probationary status until the end of the school year in which
26 such teacher or principal has received such ratings of effective or
27 highly effective for the five preceding school years, during which time
28 the trustees or board of education shall either discontinue the services

1 of such person, deny tenure or approve tenure for those classroom teach-
2 ers or building principals who otherwise have been found competent,
3 efficient and satisfactory. Provided, however, that the trustees or
4 board of education may grant tenure contingent upon a classroom teach-
5 er's or building principal's receipt of such a rating of effective or
6 highly effective in the fifth year, and if such contingency is not met,
7 the grant of tenure shall be void and unenforceable and the teacher's or
8 principal's probationary period shall be extended in accordance with
9 this subdivision. Such persons who have been recommended for tenure and
10 all others employed in the teaching service of the schools of such
11 school district who have served the full probationary period as extended
12 pursuant to this subdivision shall hold their respective positions
13 during good behavior and efficient and competent service, and shall not
14 be removable except for cause after a hearing as provided by section
15 three thousand twenty-a of this article. Failure to maintain certif-
16 ication as required by this chapter and the regulations of the commis-
17 sioner of education shall constitute cause for removal.

18 3. Notwithstanding any other provision of this section no period in
19 any school year for which there is no required service and/or for which
20 no compensation is provided shall in any event constitute a break or
21 suspension of probationary period or continuity of tenure rights of any
22 of the persons hereinabove described.

23 § 5. Section 3014 of the education law, as added by chapter 583 of the
24 laws of 1955, subdivision 1 as amended by chapter 551 of the laws of
25 1976, subdivision 2 as amended by section 10 of part A of chapter 57 of
26 the laws of 2007, is amended to read as follows:

27 § 3014. Tenure: boards of cooperative educational services. 1. (a)
28 Administrative assistants, supervisors, teachers and all other members

1 of the teaching and supervising staff of the board of cooperative educa-
2 tional services appointed prior to July first, two thousand fifteen,
3 shall be appointed by a majority vote of the board of cooperative educa-
4 tional services upon the recommendation of the district superintendent
5 of schools for a probationary period of not to exceed three years;
6 provided, however, that in the case of a teacher who has been appointed
7 on tenure in a school district within the state, the board of cooper-
8 ative educational services where currently employed, or another board of
9 cooperative educational services, and who was not dismissed from such
10 district or board as a result of charges brought pursuant to subdivision
11 one of section three thousand twenty-a of this [chapter] article, the
12 probationary period shall not exceed two years. Services of a person so
13 appointed to any such positions may be discontinued at any time during
14 such probationary period, upon the recommendation of the district super-
15 intendent, by a majority vote of the board of cooperative educational
16 services.

17 (b) Administrative assistants, supervisors, teachers and all other
18 members of the teaching and supervising staff of the board of cooper-
19 ative educational services appointed on or after July first, two thou-
20 sand fifteen, shall be appointed by a majority vote of the board of
21 cooperative educational services upon the recommendation of the district
22 superintendent of schools for a probationary period of not to exceed
23 five years; provided, however, that in the case of a teacher who has
24 been appointed on tenure in a school district within the state, the
25 board of cooperative educational services where currently employed, or
26 another board of cooperative educational services, and who was not
27 dismissed from such district or board as a result of charges brought
28 pursuant to subdivision one of section three thousand twenty-a of this

1 article, the teacher shall be appointed for a probationary period of
2 four years. Services of a person so appointed to any such positions may
3 be discontinued at any time during such probationary period, upon the
4 recommendation of the district superintendent, by a majority vote of the
5 board of cooperative educational services.

6 2. (a) On or before the expiration of the probationary term of a
7 person appointed for such term prior to July first, two thousand
8 fifteen, the district superintendent of schools shall make a written
9 report to the board of cooperative educational services recommending for
10 appointment on tenure persons who have been found competent, efficient
11 and satisfactory[, consistent with any applicable rules of the board of
12 regents adopted pursuant to section three thousand twelve-b of this
13 article]. Such persons shall hold their respective positions during good
14 behavior and competent and efficient service and shall not be removed
15 except for any of the following causes, after a hearing, as provided by
16 section three thousand twenty-a of [such law] this article: [(a)] (i)
17 Insubordination, immoral character or conduct unbecoming a teacher;
18 [(b)] (ii) Inefficiency, incompetency, physical or mental disability or
19 neglect of duty; [(c)] (iii) Failure to maintain certification as
20 required by this chapter and by the regulations of the commissioner.
21 Each person who is not to be so recommended for appointment on tenure
22 shall be so notified in writing by the district superintendent not later
23 than sixty days immediately preceding the expiration of his probationary
24 period.

25 (b) On or before the expiration of the probationary term of a person
26 appointed for such term on or after July first, two thousand fifteen,
27 the district superintendent of schools shall make a written report to
28 the board of cooperative educational services recommending for appoint-

1 ment on tenure persons who have been found competent, efficient and
2 satisfactory and, in the case of a classroom teacher or building princi-
3 pal, who have received composite annual professional performance review
4 ratings pursuant to three thousand twelve-c of this article, of either
5 effective or highly effective in each of the five preceding years.
6 Notwithstanding any other provision of law, rule or regulation to the
7 contrary, if no affirmative action is taken by the board of cooperative
8 educational services to terminate a classroom teacher or building prin-
9 cipal, or to approve or deny tenure to a classroom teacher or building
10 principal at the expiration of the probationary period, the classroom
11 teacher or building principal shall remain in probationary status until
12 the end of the school year in which such teacher or principal has
13 received such ratings of effective or highly effective for the five
14 preceding school years, during which time a board of cooperative educa-
15 tional services shall either discontinue the services of such person,
16 deny tenure or approve tenure for those classroom teachers or building
17 principals who otherwise have been found competent, efficient and satis-
18 factory. Provided, however, that the board of cooperative educational
19 services may grant tenure contingent upon a classroom teacher's or
20 building principal's receipt of such a rating of effective or highly
21 effective in the fifth year, and if such contingency is not met, the
22 grant of tenure shall be void and unenforceable and the teacher's or
23 principal's probationary period shall be extended in accordance with
24 this subdivision. Such persons shall hold their respective positions
25 during good behavior and competent and efficient service and shall not
26 be removed except for any of the following causes, after a hearing, as
27 provided by section three thousand twenty-a of this article: (i) Insub-
28 ordination, immoral character or conduct unbecoming a teacher; (ii)

1 Inefficiency, incompetency, physical or mental disability or neglect of
2 duty; (iii) Failure to maintain certification as required by this chap-
3 ter and by the regulations of the commissioner. Each person who is not
4 to be so recommended for appointment on tenure shall be so notified in
5 writing by the district superintendent not later than sixty days imme-
6 diately preceding the expiration of his probationary period.

7 § 6. Subdivision 1 of section 3012-c of the education law, as amended
8 by chapter 21 of the laws of 2012, is amended to read as follows:

9 1. Notwithstanding any other provision of law, rule or regulation to
10 the contrary, the annual professional performance reviews of all class-
11 room teachers and building principals employed by school districts or
12 boards of cooperative educational services shall be conducted in accord-
13 ance with the provisions of this section. Such performance reviews which
14 are conducted on or after July first, two thousand eleven, or on or
15 after the date specified in paragraph c of subdivision two of this
16 section where applicable, shall include measures of student achievement
17 and be conducted in accordance with this section. Such annual profes-
18 sional performance reviews shall be a significant factor for employment
19 decisions including but not limited to, promotion, retention, tenure
20 determination, termination, and supplemental compensation, which deci-
21 sions are to be made in accordance with locally developed procedures
22 negotiated pursuant to the requirements of article fourteen of the civil
23 service law where applicable. Provided, however, that nothing in this
24 section shall be construed to affect the unfettered statutory right of a
25 school district or board of cooperative educational services to termi-
26 nate a probationary teacher or principal for any statutorily and consti-
27 tutionally permissible reasons [other than the performance of the teach-
28 er or principal in the classroom or school], including but not limited

1 to misconduct and until a tenure decision is made at the
2 end/expiration/conclusion of the probationary period, the performance of
3 the teacher or principal in the classroom. Such performance reviews
4 shall also be a significant factor in teacher and principal development,
5 including but not limited to, coaching, induction support and differen-
6 tiated professional development, which are to be locally established in
7 accordance with procedures negotiated pursuant to the requirements of
8 article fourteen of the civil service law.

9 § 7. Paragraph b of subdivision 5 of section 3012-c of the education
10 law, as added by chapter 21 of the laws of 2012, is amended to read as
11 follows:

12 b. Nothing in this section shall be construed to alter or diminish the
13 authority of the governing body of a school district or board of cooper-
14 ative educational services to grant or deny tenure to or terminate
15 probationary teachers or probationary building principals during the
16 pendency of an appeal pursuant to this section for statutorily and
17 constitutionally permissible reasons [other than] including the teach-
18 er's or principal's performance that is the subject of the appeal.

19 § 8. This act shall take effect immediately.

20 SUBPART D

21 Section 1. The education law is amended by adding a new section 211-g
22 to read as follows:

23 § 211-g. Takeover and restructuring failing school districts. 1. (a) A
24 school district, other than a special act school district as defined in
25 subdivision eight of section four thousand one of this chapter, shall be
26 deemed eligible for designation as failing upon a determination by the

1 commissioner, pursuant to regulations adopted by such commissioner, that
2 the school district has scored in the lowest two and one-half percent of
3 school districts statewide when compared to other districts based on
4 metrics of student achievement and outcomes prescribed in such regu-
5 lations which may include but shall not be limited to performance on
6 state assessments, graduation rates and drop-out rates and/or perform-
7 ance of the district over time in such measures of student academic
8 achievement and outcomes. In making such determination the commissioner
9 shall consider the severity and duration of the deficiencies in student
10 achievement and outcomes of the district.

11 (b) For any school district deemed eligible for a designation as fail-
12 ing, the commissioner shall appoint a district review team to assess and
13 report on the reasons for the chronic underperformance and the prospects
14 for improvement, unless such an assessment, which is deemed adequate by
15 the commissioner, has been previously completed by a district review
16 team, integrated intervention team or distinguished educator within the
17 previous year.

18 (i) The district review team shall have the membership prescribed by
19 the commissioner, provided that it shall include at least one person
20 with expertise in the education of English language learners and at
21 least one person with expertise in the education of students with disa-
22 bilities.

23 (ii) Pursuant to regulations adopted by the commissioner, the district
24 review team shall evaluate the performance of the district based on
25 multiple indicators of district quality including student attendance,
26 short-term and long-term suspension rates, student promotion and gradu-
27 ation rates in the district, or the lack of demonstrated significant
28 improvement for two or more consecutive years in English language arts

1 and mathematics, either in the aggregate or among all the student
2 subgroups used in the state's accountability system. The district review
3 team shall also consider district leadership and capacity, school leader
4 practices and decisions, curriculum development and support, teacher
5 practices and decisions, student social and emotional developmental
6 health and family and community engagement.

7 (c) Upon review of the findings of the district review team, the
8 commissioner may declare a district as failing. Not more than two and
9 one-half percent of the total number of school districts within the
10 state may be designated as failing at any given time.

11 2. (a) Upon designation as a failing school district, the commissioner
12 shall appoint a receiver for the school district who shall possess and
13 maintain all of the powers vested in the superintendent of schools, or
14 other chief school officer of the district, and the board of education,
15 and shall have the power to supersede any decision of such superinten-
16 dent or chief school officer, or of the board of education. The receiver
17 shall have authority to review proposed school district budgets prior to
18 presentation to the district voters, or in the case of a city school
19 district in a city having a population of one hundred twenty-five thou-
20 sand or more or the adoption of a contingency budget, prior to approval
21 by the board of education, and to modify the proposed budget to conform
22 to the district turnaround plan.

23 (b) The commissioner shall contract with the receiver, and the compen-
24 sation and other costs of the receiver appointed by the commissioner
25 shall be paid from a state appropriation for such purpose, or by the
26 school district, as determined by the commissioner. Notwithstanding any
27 other provision of law to the contrary, the receiver and any of its
28 employees providing services in the receivership shall be entitled to

1 defense and indemnification by the school district to the same extent as
2 a school district employee.

3 (c) The receiver shall be a non-profit entity, another school
4 district, or an individual, who shall operate independently, but whose
5 contract may be terminated by the commissioner for a violation of law or
6 the commissioner's regulations or for neglect of duty. An external
7 receiver appointed by the commissioner to operate a district under this
8 section shall have full managerial and operational control over such
9 district; provided, however, that the board of education shall remain
10 the employer of record, and provided further that any employment deci-
11 sions of the board of education may be superseded by the receiver. It
12 shall be the duty of the board of education and the superintendent of
13 schools to fully cooperate with the receiver and willful failure to
14 cooperate or interference with the functions of the receiver shall
15 constitute willful neglect of duty for purposes of section three hundred
16 six of this title. The receiver or the receiver's designee shall be an
17 ex officio non-voting member of the board of education entitled to
18 attend all meetings of the board of education.

19 3. The receiver shall create a district turnaround plan to promote the
20 rapid improvement of the failing district and submit it to the commis-
21 sioner for approval. The plan shall specifically focus on the school or
22 schools in the district that have been identified as being in account-
23 ability status under the state's accountability system and the district
24 policies or practices that have contributed to chronic underperformance.

25 4. Before creating the district turnaround plan required by this
26 subdivision, the receiver shall consult with local stakeholders, such
27 as: (a) the board of education; (b) the superintendent of schools; (c)
28 building principals and other school leaders; (d) teachers and their

1 collective bargaining representatives; (e) school administrators and
2 their collective bargaining representatives; (f) parents of students
3 attending the school or their representatives; (g) representatives of
4 applicable state and local social services, health, and/or mental health
5 agencies; (h) as appropriate, representatives of local providers of
6 career and technical education services, state or local workforce devel-
7 opment agencies and the local business community; (i) representatives of
8 local prekindergarten programs; and (j) representatives from local
9 institutions of higher education.

10 5. (a) In the development of the district turnaround plan for a fail-
11 ing school district, the receiver shall include measures intended to
12 maximize the rapid improvement of the academic achievement of students
13 in the district and shall ensure that the plan addresses district lead-
14 ership and capacity, school leader practices and decisions, curriculum
15 development and support, teacher practices and decisions, student social
16 and emotional developmental well-being, health and family and community
17 engagement. To the extent practicable, the receiver shall base the plan
18 on student outcome data, including, but not limited to: (i) student
19 achievement growth data based on state assessments; (ii) other measures
20 of student achievement; (iii) student promotion and graduation rates;
21 (iv) achievement and growth data for the subgroups of students used in
22 the state's accountability system; (v) student attendance; and (vi)
23 long-term and short-term suspension rates.

24 (b) The district turnaround plan shall, after consideration of the
25 recommendations made by the local stakeholder group, include the follow-
26 ing: (i) steps to address social service, health and mental health needs
27 of students in the district and their families in order to help students
28 arrive and remain at school ready to learn; provided, however, that this

1 may include mental health and substance abuse screening; (ii) steps to
2 improve or expand access to child welfare services and, as appropriate,
3 services in the school district community to promote a safe and secure
4 learning environment; (iii) as applicable, steps to provide greater
5 access to career and technical education and workforce development
6 services provided to students in the district and their families in
7 order to provide students and families with meaningful employment skills
8 and opportunities; (iv) steps to address achievement gaps for English
9 language learners, students with disabilities and economically disadvan-
10 tagged students, as applicable; (v) steps to address school climate and
11 positive behavior support; and (vi) a budget for the district turnaround
12 plan.

13 (c) As necessary, the commissioners of the department of health, the
14 office of children and family services, the department of labor and
15 other applicable state and local social service, health, mental health
16 and child welfare officials shall coordinate with the commissioner
17 regarding the implementation of the strategies described in subpara-
18 graphs (i) through (iii) of paragraph (b) of this subdivision that are
19 included in the district turnaround plan and shall, subject to appropri-
20 ation, reasonably support the implementation consistent with the
21 requirements of state and federal law applicable to the relevant
22 programs that each such official is responsible for administering and
23 grant failing schools priority access to competitive grants to the
24 extent allowable.

25 (d) In order to assess the school district across multiple indicators
26 of district performance and student success, the district turnaround
27 plan shall include, measurable annual goals including, but not limited
28 to, the following: (i) student attendance; (ii) short-term and long-term

1 suspension rates; (iii) student safety and discipline; (iv) student
2 promotion and graduation and drop-out rates; (v) student achievement and
3 growth on state assessments; (vi) progress in areas of academic under-
4 performance; (vii) progress among the subgroups of students used in the
5 state's accountability system; (viii) reduction of achievement gaps
6 among different groups of students; (ix) development of college and
7 career readiness, including at the elementary and middle school levels;
8 (x) parent and family engagement; (xi) building a culture of academic
9 success among students; (xii) building a culture of student support and
10 success among faculty and staff; and (xiii) using developmentally appro-
11 priate child assessments from pre-kindergarten through third grade, if
12 applicable.

13 (e) Notwithstanding any other applicable law to the contrary, in
14 creating the district turnaround plan, the receiver shall: (i) establish
15 community schools at schools in the district to provide expanded health,
16 mental health and other services to the community; (ii) expand, alter or
17 replace the curriculum and program offerings of the district or of a
18 school in the district, including the implementation of research-based
19 early literacy programs, early interventions for struggling readers and
20 the teaching of advanced placement courses or other rigorous nationally
21 or internationally recognized courses, if the district or schools in the
22 district do not already have such programs or courses; (iii) replace
23 unqualified teachers and administrators, including school leadership;
24 (iv) provide funds, subject to appropriation to increase salaries of
25 current or prospective teachers or administrators in the district work-
26 ing in a school in accountability status; and (v) establish steps to
27 improve hiring, induction, teacher evaluation, professional development,
28 teacher advancement, school culture and organizational structure.

1 In addition to these interventions, the receiver may take other
2 actions to support the turnaround plan including but not limited to: (i)
3 reallocate the uses of the existing budget of the district; (ii) expand
4 the school day or school year or both of schools in the district; (iii)
5 limit, suspend or change one or more provisions of any contract or
6 collective bargaining agreement in the district; provided, however, that
7 the receiver shall not reduce the compensation of an administrator,
8 teacher or staff member unless the hours of the person are proportion-
9 ately reduced; (iv) add full-day pre-kindergarten and full-day kinder-
10 garten programs, if the district does not already have such programs;
11 (v) direct the receiver, in accordance with paragraphs (f) and (g) of
12 this subdivision, to abolish the positions of all members of the teach-
13 ing and administrative and supervisory staff assigned to a school desig-
14 nated as a failing school pursuant to section two hundred eleven-f of
15 this part, and terminate the employment of any building principal
16 assigned to such a school and require them to reapply for their posi-
17 tions in the district, with full discretion vested in the receiver
18 regarding any such reapplications; (vi) include a provision of job-em-
19 bedded professional development for teachers in the district, with an
20 emphasis on strategies that involve teacher input and feedback; (vii)
21 establish a plan for professional development for administrators in the
22 district, with an emphasis on strategies that develop leadership skills
23 and use the principles of distributive leadership; and/or (viii) order
24 the conversion of a district school that has been designated as failing
25 pursuant to section two hundred eleven-f of this part without a vote of
26 the parents of the school, provided that notwithstanding any other
27 provision of the law to the contrary, the board of regents shall be the
28 charter entity for such charter school and the provisions of paragraph

1 (b) and subparagraph (i) of paragraph (b-1) of subdivision three of
2 section twenty-eight hundred fifty-four of this chapter shall not apply
3 to such a conversion charter school.

4 (f) Notwithstanding any other provision of law, rule or regulation to
5 the contrary, upon designation of a school district as a failing school
6 district pursuant to section two hundred eleven-g of this part, the
7 abolition of positions of members of the teaching and administrative and
8 supervisory staff of the school district shall thereafter be governed by
9 the applicable provisions of section twenty-five hundred ten, twenty-
10 five hundred eighty-five, twenty-five hundred eighty-eight or three
11 thousand thirteen of this chapter. A classroom teacher or building prin-
12 cipal who has received two or more composite ratings of ineffective on
13 an annual professional performance review or who has never received an
14 effective or highly effective rating on such a review shall be deemed
15 not to have rendered faithful and competent service within the meaning
16 of section twenty-five hundred ten, twenty-five hundred eighty-five,
17 twenty-five hundred eighty-eight or three thousand thirteen of this
18 chapter. When a position of a classroom teacher or building principal is
19 abolished, the services of the teacher or administrator or supervisor
20 within the tenure area of the position with the lowest score on the
21 state growth and other comparable measures subcomponent of the most
22 recent annual professional performance review shall be discontinued,
23 provided that seniority within the tenure of the position shall be used
24 solely to determine which position should be discontinued in the event
25 of a tie.

26 (g) The receiver may abolish the positions of all members of the
27 teaching and supervisory staff assigned to a school designated as fail-
28 ing pursuant to section two hundred eleven-f of this part, and terminate

1 any building principal assigned to such school who is not in a tenured
2 position, and require them to reapply for probationary appointment. The
3 receiver shall have the same discretion upon such reapplication as the
4 board of education has with any candidate for a probationary appoint-
5 ment. A determination of the receiver not to rehire a teacher, adminis-
6 trator or supervisor may be appealed to the commissioner pursuant to
7 section three hundred ten of this title, provided that such determi-
8 nation may only be set aside upon a finding that the receiver's determi-
9 nation was made in bad faith or for constitutional or statutory reasons.
10 Notwithstanding any other provision of law to the contrary, a member of
11 the teaching or administrative staff who is not rehired pursuant to this
12 paragraph shall not have any right to bump or displace any other person
13 employed by the district, but shall be placed on a preferred eligibility
14 list in accordance with the applicable provisions of section twenty-five
15 hundred ten, twenty-five hundred eighty-five, twenty-five hundred eight-
16 y-eight or three thousand thirteen of this chapter.

17 (h) For a district with English language learners, the professional
18 development and planning time for teachers and administrators identified
19 in subparagraphs (ix) through (xi), inclusive, of paragraph (d) of this
20 subdivision shall include specific strategies and content designed to
21 maximize the rapid academic achievement of English language learners in
22 the district.

23 6. A final district turnaround plan shall be issued by the receiver
24 within six months of designation of the district as a failing school
25 district. A copy of such plan shall be provided to the board of educa-
26 tion, the superintendent of schools and the collective bargaining repre-
27 sentatives of teachers and administrators of the school district. The
28 plan shall be publicly available and shall be posted on the department's

1 website and the school district's website, and the school district shall
2 provide notice to parents of such district turnaround plan and its
3 availability.

4 7. The district turnaround plan shall be authorized for a period of
5 not more than three years. The receiver may develop additional compo-
6 nents of the plan and shall develop annual goals for each component of
7 the plan in a manner consistent with the provisions of this section. The
8 receiver shall be responsible for meeting the goals of the district
9 turnaround plan.

10 8. The receiver shall provide a written report to the board of educa-
11 tion on a quarterly basis to provide specific information about the
12 progress being made on the implementation of the district's district
13 turnaround plan. One of the quarterly reports shall be the annual evalu-
14 ation required in subdivision nine of this section.

15 9. The commissioner shall evaluate the performance of the receiver on
16 not less than an annual basis. The purpose of such evaluation shall be
17 to assess the implementation of the district turnaround plan and deter-
18 mine whether the district has met the annual goals contained in the
19 district turnaround plan. The evaluation shall be in writing and submit-
20 ted to the commissioner and the board of education of the school
21 district no later than July first for the preceding school year. If the
22 commissioner determines that the district has met the annual performance
23 goals stated in the district turnaround plan, the evaluation shall be
24 considered sufficient and the implementation of the district turnaround
25 plan shall continue. If the commissioner determines that the receiver
26 has not met one or more goals in the plan and the failure to meet the
27 goals may be corrected through reasonable modification of the plan, the
28 commissioner may require the receiver to amend the district turnaround

1 plan, as necessary. If the commissioner determines that the receiver has
2 substantially failed to meet multiple goals in the district turnaround
3 plan, the commissioner may terminate the contract of such receiver;
4 provided, however, that the termination shall not occur before the
5 completion of the first full school year of the receivership of the
6 district.

7 10. After the period of receivership, the commissioner shall conduct a
8 reevaluation of a district's status as failing pursuant to this section.
9 The commissioner shall adopt regulations providing for: the removal of
10 a designation of a district as chronically underperforming; and the
11 transfer of the operation of a chronically underperforming district from
12 an external receiver back to the superintendent of schools and the board
13 of education of the school district, based on the measurable improvement
14 of the district.

15 (a) The regulations shall include provisions to allow a district to
16 retain measures adopted in a district turnaround plan for a transitional
17 period if, in the judgment of the commissioner, the measures would
18 contribute to the continued improvement of the district. Such regu-
19 lations shall also include provisions that clearly identify the condi-
20 tions under which such a transitional period shall end and the powers
21 granted to the commissioner under this section shall cease to apply to a
22 district previously designated as a failing school district.

23 (b) Pursuant to the regulations promulgated by the commissioner, at
24 any time after a failing district has been placed in receivership, the
25 board of education of the school district may petition the commissioner
26 for a determination as to whether the district turnaround plan should be
27 modified or eliminated and whether the school district shall no longer
28 be designated as failing. The board of education of a failing school

1 district may seek review by commissioner following an adverse determi-
2 nation.

3 (c) If, pursuant to the regulations adopted by the commissioner, a
4 district has not improved sufficiently to remove the designation of the
5 district as failing, the commissioner may: (i) jointly determine subse-
6 quent annual goals for each component of the district turnaround plan
7 with the receiver and renew the district turnaround plan for an addi-
8 tional period of not more than three years; or (ii) terminate the
9 contract of the receiver, appoint a new receiver and create a new or
10 modified district turnaround plan, consistent with the requirements of
11 this section.

12 § 2. The education law is amended by adding a new section 211-f to
13 read as follows:

14 § 211-f. Take over and restructuring failing schools. 1. (a) The
15 commissioner shall designate as failing each of the schools that have
16 been identified under the state's accountability system to be among the
17 lowest achieving five percent of public schools in the state (priority
18 schools) for at least three years based upon measures of student
19 achievement and outcomes and a methodology prescribed in the regulations
20 of the commissioner, provided that this list shall not include schools
21 within a special act school district as defined in subdivision eight of
22 section four thousand one of this chapter or schools chartered pursuant
23 to article fifty-six of this chapter.

24 (b) A failing school shall operate in accordance with laws regulating
25 other public schools, except as such provisions may conflict with this
26 section or any school intervention plans created thereunder.

27 (c) Upon the designation of a school as a failing school in accordance
28 with regulations developed pursuant to this section, the commissioner

1 shall appoint an external receiver to manage and operate the school and
2 to develop and implement a school intervention plan for the school. The
3 commissioner shall make such appointments as expeditiously as possible,
4 and in prioritizing schools for appointments the commissioner shall give
5 priority based on the severity and duration of the school's deficiencies
6 in student achievement and outcomes.

7 2. (a) The receiver shall be authorized to manage and operate the
8 failing school and shall have the power to supersede any decision of the
9 superintendent of schools or chief school officer, or of the board of
10 education or of the building principal that in the judgment of the
11 receiver conflicts with the school improvement plan. The receiver shall
12 have authority to review proposed school district budgets prior to pres-
13 entation to the district voters, or in the case of a city school
14 district in a city having a population of one hundred twenty-five thou-
15 sand or more or the adoption of a contingency budget, prior to approval
16 by the board of education, and to modify the proposed budget to conform
17 to the school intervention plan.

18 (b) The provisions of paragraphs (b) and (c) of subdivision two of
19 section two hundred eleven-g of this part shall apply to receivers
20 appointed pursuant to this section.

21 3. Before developing the school intervention plan, the receiver shall
22 consult with local stakeholders such as: (a) the board of education; (b)
23 the superintendent of schools; (c) the building principal; (d) teachers
24 assigned to the school and their collective bargaining representative;
25 (e) school administrators assigned to the school and their collective
26 bargaining representative; (f) parents of students attending the school
27 or their representatives; (g) representatives of applicable state and
28 local social service, health and mental health agencies; (h) as appro-

1 priate, representatives of local career education providers, state and
2 local workforce development agencies and the local business community;
3 (i) for elementary schools, representatives of local prekindergarten
4 programs and, (j) as needed for middle schools or high schools, repre-
5 sentatives of local higher education institutions.

6 4. In creating the school intervention plan, the receiver shall
7 include provisions intended to maximize the rapid academic achievement
8 of students at the school and shall ensure that the plan addresses
9 district leadership and capacity, school leader practices and decisions,
10 curriculum development and support, teacher practices and decisions,
11 student social and emotional developmental health and family and commu-
12 nity engagement. The receiver shall, to the extent practicable, base the
13 plan on the findings of any recent diagnostic review or assessment of
14 the school that has been conducted and, as applied to the school,
15 student outcome data as specified in paragraph (a) of subdivision five
16 of section two hundred eleven-g of this part.

17 5. (a) The receiver shall address in the school intervention plan the
18 strategies set forth in paragraph (b) of subdivision five of section two
19 hundred eleven-g of this part, as applied to the school, except that
20 instead of the school district budget, the school intervention plan
21 shall include a financial plan.

22 (b) As necessary, the commissioners of the department of health, the
23 office of children and family services, the department of labor and
24 other applicable state and local social service, health, mental health
25 and child welfare officials shall coordinate with the receiver regarding
26 the implementation of the strategies described in subparagraphs (i)
27 through (iii) of paragraph (b) of subdivision five of section two
28 hundred eleven-g of this part that are included in the school inter-

1 vention plan and shall, subject to appropriation, reasonably support the
2 implementation consistent with the requirements of state and federal law
3 applicable to the relevant programs that each such official is responsi-
4 ble for administering, and grant community schools access to competitive
5 grants, as allowable.

6 6. In order to assess the school across multiple measures of school
7 performance and student success, the school intervention plan shall
8 include measurable annual goals, as set forth in paragraph (d) of subdi-
9 vision five of section two hundred eleven-g of this part, that are
10 tailored to the needs of the school.

11 7. (a) Notwithstanding any general or special law to the contrary, in
12 creating and implementing the school intervention plan, the receiver
13 shall, after consulting with stakeholders: (i) convert schools to commu-
14 nity schools to provide expanded health, mental health and other
15 services to the community; (ii) expand, alter or replace the curriculum
16 and program offerings of the school, including the implementation of
17 research-based early literacy programs, early interventions for struggl-
18 ing readers and the teaching of advanced placement courses or other
19 rigorous nationally or internationally recognized courses, if the school
20 does not already have such programs or courses; (iii) replace unquali-
21 fied teachers and administrators, including school leadership; (iv)
22 increase salaries of current or prospective teachers and administrators;
23 and (v) improved hiring, induction, teacher evaluation, professional
24 development, teacher advancement, school culture and organizational
25 structure.

26 In addition to the above interventions, the receiver may also: (i)
27 reallocate the uses of the existing budget of the school; (ii) expand
28 the school day or school year or both of the school; (iii) for a school

1 that offers the first grade, add pre-kindergarten and full-day kinder-
2 garten classes, if the school does not already have such classes; (iv)
3 limit, suspend, or change one or more provisions of any contract or
4 collective bargaining agreement, as the contract or agreement applies to
5 the school; provided, however, that the receiver shall not reduce the
6 compensation of an administrator, teacher or staff member unless the
7 hours of the person are proportionately reduced; and provided further,
8 that upon request of the receiver the public employment relations board
9 shall require the board of education and any applicable collective
10 bargaining representatives to bargain in good faith for at least thirty
11 days before exercising authority pursuant to this clause; (v) in accord-
12 ance with paragraphs (b) and (c) of this subdivision, to abolish the
13 positions of all members of the teaching and administrative and supervi-
14 sory staff assigned to the failing school and terminate the employment
15 of any building principal assigned to such a school, and require them to
16 reapply for their positions in the district; (vi) include a provision of
17 job-embedded professional development for teachers at the school, with
18 an emphasis on strategies that involve teacher input and feedback; (vii)
19 establish a plan for professional development for administrators at the
20 school, with an emphasis on strategies that develop leadership skills
21 and use the principles of distributive leadership; and/or (viii) order
22 the conversion of a district school that has been designated as failing
23 pursuant to this section without a vote of the parents of the school,
24 provided that notwithstanding any other provision of law to the contra-
25 ry, the board of regents shall be the charter entity for such charter
26 school and the provisions of paragraph (b) and subparagraph (i) of para-
27 graph (b-1) of subdivision three of section twenty-eight hundred fifty-

1 four of this chapter shall not apply to such a conversion charter
2 school.

3 (b) Notwithstanding any other provision of law, rule or regulation to
4 the contrary, upon designation of any school of the school district as a
5 failing school pursuant to this section, the abolition of positions of
6 members of the teaching and administrative and supervisory staff of the
7 school district shall thereafter be governed by the applicable
8 provisions of section twenty-five hundred ten, twenty-five hundred
9 eighty-five, twenty-five hundred eighty-eight or three thousand thirteen
10 of this chapter as modified by this paragraph. A classroom teacher or
11 building principal who has received two or more composite ratings of
12 ineffective on an annual professional performance review or who has
13 never received an effective or highly effective rating on such a review
14 shall be deemed not to have rendered faithful and competent service
15 within the meaning of section twenty-five hundred ten, twenty-five
16 hundred eighty-five, twenty-five hundred eighty-eight or three thousand
17 thirteen of this chapter. When a position of a classroom teacher or
18 building principal is abolished, the services of the teacher or adminis-
19 trator or supervisor within the tenure area of the position with the
20 lowest score on the state growth and other comparable measures subcompo-
21 nent of the most recent annual professional performance review shall be
22 discontinued, provided that seniority within the tenure of the position
23 shall be used solely to determine which position should be discontinued
24 in the event of a tie.

25 (c) The receiver may abolish the positions of all members of the
26 teaching and supervisory staff assigned to a school designated as fail-
27 ing pursuant to this section, and terminate any building principal
28 assigned to such school who is not in a tenured position, and require

1 them to reapply for a probationary appointment. The board shall have
2 the same discretion upon such reapplication as it has with any candidate
3 for a probationary appointment. A determination of the board not to
4 rehire a teacher, administrator or supervisor may be appealed to the
5 commissioner pursuant to section three hundred ten of this title,
6 provided that such determination may only be set aside upon a finding
7 that the board's determination was made in bad faith or for constitu-
8 tionally or statutorily impermissible reasons. Notwithstanding any other
9 provision of law to the contrary, a member of the teaching or adminis-
10 trative staff who is not rehired pursuant to this paragraph shall not
11 have any right to bump or displace any other person employed by the
12 district, but shall be placed on a preferred eligibility list in accord-
13 ance with the applicable provisions of section twenty-five hundred ten,
14 twenty-five hundred eighty-five, twenty-five hundred eighty-eight or
15 three thousand thirteen of this chapter.

16 (d) For a school with English language learners, the professional
17 development and planning time for teachers and administrators identified
18 in clauses (vi) through (viii) of the closing paragraph of paragraph (a)
19 of this subdivision, shall include specific strategies and content
20 designed to maximize the rapid academic achievement of the English
21 language learners.

22 (e) If the receiver proposes to reallocate funds to the school from
23 the budget of the district under clause (i) of the closing paragraph of
24 paragraph (a) of this subdivision, the receiver shall notify the board
25 of education, in writing, of the amount of and rationale for the reallo-
26 cation.

27 8. A final school intervention plan shall be issued by the receiver
28 within six months of designation of the school as a failing school. A

1 copy of such plan shall be provided to the board of education, the
2 superintendent of schools and the collective bargaining representatives
3 of teachers and administrators of the school district. The plan shall be
4 publicly available and shall be posted on the department's website and
5 the school district's website, and the school district shall provide
6 notice to parents of such school intervention plan and its availability.

7 9. Each school intervention plan shall be authorized for a period of
8 not more than three years. The external receiver, as applicable, may
9 develop additional components of the plan and shall develop annual goals
10 for each component of the plan in a manner consistent with this section,
11 all of which must be approved by the commissioner. The external receiv-
12 er, as applicable, shall be responsible for meeting the goals of the
13 school intervention plan.

14 10. The external receiver shall provide a written report to the board
15 of education on a quarterly basis to provide specific information about
16 the progress being made on the implementation of the school's school
17 intervention plan. One of the quarterly reports shall be the annual
18 evaluation under subdivision eleven of this section.

19 11. (a) The commissioner shall evaluate each failing school at least
20 annually. The purpose of the evaluation shall be to determine whether
21 the school has met the annual goals in its school intervention plan and
22 assess the implementation of the plan at the school. The review shall be
23 in writing and shall be submitted to the superintendent and the board of
24 education not later than July first for the preceding school year. The
25 review shall be submitted in a format determined by the commissioner.

26 (b) If the commissioner determines that the school has met the annual
27 performance goals stated in the school intervention plan, the review
28 shall be considered sufficient and the implementation of the school

1 intervention plan shall continue. If the commissioner determines that
2 the school has not met one or more goals in the plan, the commissioner
3 may modify the plan.

4 12. Upon the expiration of a school intervention plan for a failing
5 school, the commissioner shall conduct a review of the school to deter-
6 mine whether the school has improved sufficiently, requires further
7 improvement or has failed to improve. On the basis of such review, the
8 commissioner may: (a) on the basis of the external receiver's progress
9 in successfully meeting the terms of the plan, renew the plan with the
10 external receiver for an additional period of not more than three years;
11 (b) if the failing school remains failing and the terms of the plan have
12 not been substantially met, terminate the contract with the receiver and
13 appoint a new external receiver; or (c) determine that the school has
14 improved sufficiently for the designation of failing to be removed.

15 13. The commissioner shall be authorized to adopt regulations to carry
16 out the provisions of this section.

17 14. The commissioner shall report annually to the governor and the
18 legislature on the implementation and fiscal impact of this section and
19 section two hundred eleven-g of this part. The report shall include, but
20 not be limited to, a list of all schools currently designated as fail-
21 ing, a list of all districts currently designated as failing, and the
22 strategies used in each of the schools and districts to maximize the
23 rapid academic achievement of students.

24 § 3. This act shall take effect July 1, 2015; provided, however, that
25 effective immediately, the addition, amendment and/or repeal of any rule
26 or regulation necessary for the implementation of this act on its effec-
27 tive date is authorized and directed to be made and completed on or
28 before such date.

1

SUBPART E

2 Section 1. Subdivision 7-a of section 305 of the education law, as
3 added by chapter 296 of the laws of 2008, is amended to read as follows:

4 7-a. a. In addition to the authority to revoke and annul a certificate
5 of qualification of a teacher in a proceeding brought pursuant to subdi-
6 vision seven of this section, the commissioner shall be authorized, and
7 it shall be his or her duty, to revoke and annul in accordance with this
8 subdivision the teaching certificate of a teacher convicted of a sex
9 offense for which registration as a sex offender is required pursuant to
10 article six-C of the correction law or of any other violent felony
11 offense in which a child was a victim.

12 b. As used in this subdivision, the following terms shall have the
13 following meanings:

14 (1) "conviction" means any conviction whether by plea of guilty or
15 nolo contendere or from a verdict after trial or otherwise;

16 (2) "sex offense" means an offense set forth in subdivision two or
17 three of section one hundred sixty-eight-a of the correction law,
18 including an offense committed in any jurisdiction for which the offen-
19 der is required to register as a sex offender in New York;

20 (3) "teacher" means any professional educator holding a teaching
21 certificate as defined in subparagraph four of this paragraph, including
22 but not limited to a classroom teacher, teaching assistant, pupil
23 personnel services professional, school administrator or supervisor or
24 superintendent of schools; [and]

25 (4) "teaching certificate" means the certificate or license or other
26 certificate of qualification granted to a teacher by any authority what-
27 soever; and

1 (5) "violent felony offense" means any offense as defined in subdivi-
2 sion one of section 70.02 of the penal law.

3 c. Upon receipt of a certified copy of a criminal history record show-
4 ing that a teacher has been convicted of a sex offense or sex offenses
5 or a violent felony offense in which a child was a victim or upon
6 receipt of notice of such a conviction as provided in paragraph d of
7 this subdivision, the commissioner shall automatically revoke and annul
8 the teaching certificate of such teacher without the right to a hearing.
9 The commissioner shall mail notice of the revocation and annulment
10 pursuant to this subdivision by certified mail, return receipt
11 requested, and by first-class mail directed to the teacher at such
12 teacher's last known address and, if different, the last address filed
13 by the certificate holder with the commissioner and to the teacher's
14 counsel of record in the criminal proceeding as reported in the notice
15 pursuant to paragraph d of this subdivision. Such notice shall inform
16 the teacher that his or her certificate has been revoked and annulled,
17 identify the sex offense or sex offenses or violent felony offense or
18 offenses in which a child was a victim of which the teacher has been
19 convicted and shall set forth the procedure to follow if the teacher
20 denies he or she is the person who has been so convicted. If such teach-
21 er notifies the commissioner in writing within twenty-five days after
22 the date of receipt of the notice that he or she is not the same person
23 as the convicted offender identified in the criminal record or identi-
24 fied pursuant to paragraph d of this subdivision, provides proof to
25 reasonably support such claim and the commissioner is satisfied the
26 proof establishes such claim, the commissioner shall, within five busi-
27 ness days of the receipt of such proof, restore such teacher's teaching
28 certificate retroactive to the date of revocation and annulment.

1 d. Upon conviction of a teacher of a sex offense defined in this
2 subdivision, the district attorney or other prosecuting authority who
3 obtained such conviction shall provide notice of such conviction to the
4 commissioner identifying the sex offense or sex offenses or violent
5 felony offense or offenses in which a child was a victim of which the
6 teacher has been convicted, the name and address of such offender and
7 other identifying information prescribed by the commissioner, including
8 the offender's date of birth and social security number, to the extent
9 consistent with federal and state laws governing personal privacy and
10 confidentiality of information. Such notice shall also include the name
11 and business address of the offender's counsel of record in the criminal
12 proceeding.

13 e. Upon receipt of proof that the conviction or convictions that
14 formed the basis for revocation and annulment of the teacher's teaching
15 certificate pursuant to this subdivision have been set aside upon appeal
16 or otherwise reversed, vacated or annulled, the commissioner shall be
17 required to conduct a due process hearing pursuant to subdivision seven
18 of this section and part eighty-three of title eight of the New York
19 codes, rules and regulations prior to making a determination as to
20 whether to reinstate the teacher's original teaching certificate. Such
21 determination shall be made within ninety days after such proof has been
22 received.

23 f. Except as provided in paragraph g of this subdivision, and notwith-
24 standing any other provision of law to the contrary, a teacher shall be
25 reinstated to his or her position of employment in a public school, with
26 full back pay and benefits from the date his or her certificate was
27 revoked or annulled to the date of such reinstatement, under the follow-
28 ing circumstances:

1 (i) The termination of employment was based solely on the conviction
2 of a sex offense, or conviction of a violent felony offense or offenses
3 in which a child was a victim, or the revocation or annulment of a
4 certificate based on such conviction, and such conviction has been set
5 aside on appeal or otherwise reversed, vacated or annulled and the
6 commissioner has reinstated the teacher's certification pursuant to
7 paragraph e of this subdivision; or

8 (ii) The termination of employment was based solely on the conviction
9 of a sex offense or violent felony offense or offenses in which a child
10 was a victim and it has been determined that the teacher is not the same
11 person as the convicted offender.

12 g. If a teacher's employment was terminated as a result of a discipli-
13 nary proceeding conducted pursuant to section three thousand twenty-a of
14 this chapter or other disciplinary hearing conducted pursuant to any
15 collective bargaining or contractual agreement on one or more grounds
16 other than conviction of a sex offense, or the revocation or annulment
17 of a certificate based on such conviction, then nothing in paragraph f
18 of this subdivision shall require a school district to reinstate employ-
19 ment of such teacher or be liable for back pay or benefits.

20 h. No provision of this article shall be deemed to preclude the
21 following: (i) the commissioner from conducting a due process hearing
22 pursuant to subdivision seven of this section and part eighty-three of
23 title eight of the New York codes, rules and regulations; or (ii) a
24 school district or employing board from bringing a disciplinary proceed-
25 ing pursuant to section three thousand twenty-a of this chapter; or
26 (iii) a school district or employing board from bringing an alternative
27 disciplinary proceeding conducted pursuant to a collective bargaining or
28 contractual agreement.

1 i. The commissioner shall be authorized to promulgate any regulations
2 necessary to implement the provisions of this subdivision.

3 § 2. Subdivision 3 and paragraph a of subdivision 4 of section 3020 of
4 the education law, as amended by chapter 103 of the laws of 2010, are
5 amended to read as follows:

6 3. Notwithstanding any inconsistent provision of law, the procedures
7 set forth in section three thousand twenty-a of this article and subdi-
8 vision seven of section twenty-five hundred ninety-j of this chapter may
9 be modified or replaced by agreements negotiated between the city school
10 district of the city of New York and any employee organization repres-
11 enting employees or titles that are or were covered by any memorandum of
12 agreement executed by such city school district and the council of
13 supervisors and administrators of the city of New York on or after
14 December first, nineteen hundred ninety-nine. Where such procedures are
15 so modified or replaced: (i) compliance with such modification or
16 replacement procedures shall satisfy any provision in this chapter that
17 requires compliance with section three thousand twenty-a, (ii) any
18 employee against whom charges have been preferred prior to the effective
19 date of such modification or replacement shall continue to be subject to
20 the provisions of such section as in effect on the date such charges
21 were preferred, (iii) the provisions of subdivisions one and two of this
22 section shall not apply to agreements negotiated pursuant to this subdi-
23 vision, and (iv) in accordance with paragraph (e) of subdivision one of
24 section two hundred nine-a of the civil service law, such modification
25 or replacement procedures contained in an agreement negotiated pursuant
26 to this subdivision shall continue as terms of such agreement after its
27 expiration until a new agreement is negotiated; provided that any alter-
28 nate disciplinary procedures contained in a collective bargaining agree-

1 ment that becomes effective on or after July first, two thousand ten
2 shall provide for an expedited hearing process before a single hearing
3 officer in accordance with subparagraph (i-a) of paragraph c of subdivi-
4 sion three of section three thousand twenty-a of this article in cases
5 in which charges of incompetence are brought against a building princi-
6 pal based solely upon an allegation of a pattern of ineffective teaching
7 or performance as defined in section three thousand twelve-c of this
8 article and shall provide that such a pattern of ineffective teaching or
9 performance shall constitute very significant evidence of incompetence
10 which may form the basis for just cause removal of the building princi-
11 pal and provided further that any alternate disciplinary procedures
12 contained in a collective bargaining agreement that becomes effective on
13 or after April first, two thousand fifteen shall provide that all hear-
14 ings shall be conducted before a single hearing officer and that such a
15 pattern of ineffective teaching or performance by a building principal
16 shall constitute prima facie evidence of incompetence that can only be
17 rebutted by clear and convincing evidence that the calculation of one or
18 more of the teacher's or principal's underlying composite ratings on the
19 annual professional performance reviews pursuant to section three thou-
20 sand twelve-c of this article was fraudulent, and if not successfully
21 rebutted, the finding, absent extraordinary circumstances, shall be just
22 cause for removal. Notwithstanding any inconsistent provision of law,
23 the commissioner shall review any appeals authorized by such modifica-
24 tion or replacement procedures within fifteen days from receipt by such
25 commissioner of the record of prior proceedings in the matter subject to
26 appeal. Such review shall have preference over all other appeals or
27 proceedings pending before such commissioner.

1 a. Notwithstanding any inconsistent provision of law, the procedures
2 set forth in section three thousand twenty-a of this article and subdi-
3 vision seven of section twenty-five hundred ninety-j of this chapter may
4 be modified by agreements negotiated between the city school district of
5 the city of New York and any employee organization representing employ-
6 ees or titles that are or were covered by any memorandum of agreement
7 executed by such city school district and the united federation of
8 teachers on or after June tenth, two thousand two. Where such proce-
9 dures are so modified: (i) compliance with such modified procedures
10 shall satisfy any provision of this chapter that requires compliance
11 with section three thousand twenty-a of this article; (ii) any employee
12 against whom charges have been preferred prior to the effective date of
13 such modification shall continue to be subject to the provisions of such
14 section as in effect on the date such charges were preferred; (iii) the
15 provisions of subdivisions one and two of this section shall not apply
16 to agreements negotiated pursuant to this subdivision, except that no
17 person enjoying the benefits of tenure shall be disciplined or removed
18 during a term of employment except for just cause; and (iv) in accord-
19 ance with paragraph (e) of subdivision one of section two hundred nine-a
20 of the civil service law, such modified procedures contained in an
21 agreement negotiated pursuant to this subdivision shall continue as
22 terms of such agreement after its expiration until a new agreement is
23 negotiated; and provided further that any alternate disciplinary proce-
24 dures contained in a collective bargaining agreement that becomes effec-
25 tive on or after July first, two thousand ten shall provide for an expe-
26 dited hearing process before a single hearing officer in accordance with
27 subparagraph (i-a) of paragraph c of subdivision three of section three
28 thousand twenty-a of this article in cases in which charges of incompe-

1 tence are brought based solely upon an allegation of a pattern of inef-
2 fective teaching or performance as defined in section three thousand
3 twelve-c of this article and shall provide that such a pattern of inef-
4 fective teaching or performance shall constitute very significant
5 evidence of incompetence which may form the basis for just cause
6 removal, and provided further that any alternate disciplinary procedures
7 contained in a collective bargaining agreement that becomes effective on
8 or after April first, two thousand fifteen shall provide that all hear-
9 ings shall be conducted before a single hearing officer and that such a
10 pattern of ineffective teaching or performance shall constitute prima
11 facie evidence of incompetence that can only be rebutted by clear and
12 convincing evidence that the calculation of one or more of the teacher's
13 or principal's underlying composite ratings on the annual professional
14 performance reviews pursuant to section three thousand twelve-c of this
15 article was fraudulent, and if not successfully rebutted, the finding,
16 absent extraordinary circumstances, shall be just cause for removal.

17 § 3. Section 3020-a of the education law, as amended by section 1 of
18 part B of chapter 57 of the laws of 2012, is amended to read as follows:

19 § 3020-a. Disciplinary procedures and penalties. 1. Filing of charges.
20 All charges against a person enjoying the benefits of tenure as provided
21 in subdivision three of section eleven hundred two, and sections twen-
22 ty-five hundred nine, twenty-five hundred seventy-three, twenty-five
23 hundred ninety-j, three thousand twelve and three thousand fourteen of
24 this chapter shall be in writing and filed with the clerk or secretary
25 of the school district or employing board during the period between the
26 actual opening and closing of the school year for which the employed is
27 normally required to serve. Except as provided in subdivision eight of
28 section twenty-five hundred seventy-three and subdivision seven of

1 section twenty-five hundred ninety-j of this chapter, no charges under
2 this section shall be brought more than three years after the occurrence
3 of the alleged incompetency or misconduct, except when the charge is of
4 misconduct constituting a crime when committed.

5 2. Disposition of charges. a. Upon receipt of the charges, the clerk
6 or secretary of the school district or employing board shall immediately
7 notify said board thereof. Within five days after receipt of charges,
8 the employing board, in executive session, shall determine, by a vote of
9 a majority of all the members of such board, whether probable cause
10 exists to bring a disciplinary proceeding against an employee pursuant
11 to this section. If such determination is affirmative, a written state-
12 ment specifying (i) the charges in detail, (ii) the maximum penalty
13 which will be imposed by the board if the employee does not request a
14 hearing or that will be sought by the board if the employee is found
15 guilty of the charges after a hearing and (iii) the employee's rights
16 under this section, shall be immediately forwarded to the accused
17 employee by certified or registered mail, return receipt requested or by
18 personal delivery to the employee.

19 b. The employee may be suspended pending a hearing on the charges and
20 the final determination thereof. The suspension shall be with pay,
21 except the employee may be suspended without pay if the employee has
22 entered a guilty plea to or has been convicted of a felony crime
23 concerning the criminal sale or possession of a controlled substance, a
24 precursor of a controlled substance, or drug paraphernalia as defined in
25 article two hundred twenty or two hundred twenty-one of the penal law;
26 or a felony crime involving the physical abuse of a minor or student.
27 The suspension shall also be without pay if the employee is charged with
28 misconduct constituting physical or sexual abuse of a student and is

1 suspended pending an expedited hearing pursuant to subparagraph (i-b) of
2 paragraph c of subdivision three of this section, provided that such an
3 employee shall be eligible to receive reimbursement for withheld pay if
4 the hearing officer finds in his favor. The employee shall be terminated
5 without a hearing, as provided for in this section, upon conviction of a
6 sex offense, as defined in subparagraph two of paragraph b of subdivi-
7 sion seven-a of section three hundred five of this chapter. To the
8 extent this section applies to an employee acting as a school adminis-
9 trator or supervisor, as defined in subparagraph three of paragraph b of
10 subdivision seven-b of section three hundred five of this chapter, such
11 employee shall be terminated without a hearing, as provided for in this
12 section, upon conviction of a felony offense defined in subparagraph two
13 of paragraph b of subdivision seven-b of section three hundred five of
14 this chapter.

15 c. [Within] (i) For hearings commenced by the filing of charges prior
16 to April first, two thousand fifteen, within ten days of receipt of the
17 statement of charges, the employee shall notify the clerk or secretary
18 of the employing board in writing whether he or she desires a hearing on
19 the charges and when the charges concern pedagogical incompetence or
20 issues involving pedagogical judgment, his or her choice of either a
21 single hearing officer or a three member panel, provided that a three
22 member panel shall not be available where the charges concern pedagog-
23 ical incompetence based solely upon a teacher's or principal's pattern
24 of ineffective teaching or performance as defined in section three thou-
25 sand twelve-c of this article. All other charges shall be heard by a
26 single hearing officer.

27 (ii) All hearings commenced by the filing of charges on or after April
28 first, two thousand fifteen shall be heard by a single hearing officer.

1 d. The unexcused failure of the employee to notify the clerk or secre-
2 tary of his or her desire for a hearing within ten days of the receipt
3 of charges shall be deemed a waiver of the right to a hearing. Where an
4 employee requests a hearing in the manner provided for by this section,
5 the clerk or secretary of the board shall, within three working days of
6 receipt of the employee's notice or request for a hearing, notify the
7 commissioner of the need for a hearing. If the employee waives his or
8 her right to a hearing the employing board shall proceed, within fifteen
9 days, by a vote of a majority of all members of such board, to determine
10 the case and fix the penalty, if any, to be imposed in accordance with
11 subdivision four of this section.

12 3. Hearings. a. Notice of hearing. Upon receipt of a request for a
13 hearing in accordance with subdivision two of this section, the commis-
14 sioner shall forthwith notify the American Arbitration Association
15 (hereinafter "association") of the need for a hearing and shall request
16 the association to provide to the commissioner forthwith a list of names
17 of persons chosen by the association from the association's panel of
18 labor arbitrators to potentially serve as hearing officers together with
19 relevant biographical information on each arbitrator. Upon receipt of
20 said list and biographical information, the commissioner shall forthwith
21 send a copy of both simultaneously to the employing board and the
22 employee. The commissioner shall also simultaneously notify both the
23 employing board and the employee of each potential hearing officer's
24 record in the last five cases of commencing and completing hearings
25 within the time periods prescribed in this section.

26 b. (i) Hearing officers. All hearings pursuant to this section shall
27 be conducted before and by a single hearing officer selected as provided
28 for in this section. A hearing officer shall not be eligible to serve in

1 such position if he or she is a resident of the school district, other
2 than the city of New York, under the jurisdiction of the employing
3 board, an employee, agent or representative of the employing board or of
4 any labor organization representing employees of such employing board,
5 has served as such agent or representative within two years of the date
6 of the scheduled hearing, or if he or she is then serving as a mediator
7 or fact finder in the same school district.

8 (A) Notwithstanding any other provision of law, for hearings commenced
9 by the filing of charges prior to April first, two thousand twelve, the
10 hearing officer shall be compensated by the department with the custom-
11 ary fee paid for service as an arbitrator under the auspices of the
12 association for each day of actual service plus necessary travel and
13 other reasonable expenses incurred in the performance of his or her
14 duties. All other expenses of the disciplinary proceedings commenced by
15 the filing of charges prior to April first, two thousand twelve shall be
16 paid in accordance with rules promulgated by the commissioner. Claims
17 for such compensation for days of actual service and reimbursement for
18 necessary travel and other expenses for hearings commenced by the filing
19 of charges prior to April first, two thousand twelve shall be paid from
20 an appropriation for such purpose in the order in which they have been
21 approved by the commissioner for payment, provided payment shall first
22 be made for any other hearing costs payable by the commissioner, includ-
23 ing the costs of transcribing the record, and provided further that no
24 such claim shall be set aside for insufficiency of funds to make a
25 complete payment, but shall be eligible for a partial payment in one
26 year and shall retain its priority date status for appropriations desig-
27 nated for such purpose in future years.

1 (B) Notwithstanding any other provision of law, rule or regulation to
2 the contrary, for hearings commenced by the filing of charges on or
3 after April first, two thousand twelve, the hearing officer shall be
4 compensated by the department for each day of actual service plus neces-
5 sary travel and other reasonable expenses incurred in the performance of
6 his or her duties, provided that the commissioner shall establish a
7 schedule for maximum rates of compensation of hearing officers based on
8 customary and reasonable fees for service as an arbitrator and provide
9 for limitations on the number of study hours that may be claimed.

10 (ii) The commissioner shall mail to the employing board and the
11 employee the list of potential hearing officers and biographies provided
12 to the commissioner by the association, the employing board and the
13 employee, individually or through their agents or representatives, shall
14 by mutual agreement select a hearing officer from said list to conduct
15 the hearing and shall notify the commissioner of their selection.

16 (iii) Within fifteen days after receiving the list of potential hear-
17 ing officers as described in subparagraph (ii) of this paragraph, the
18 employing board and the employee shall each notify the commissioner of
19 their agreed upon hearing officer selection. If the employing board and
20 the employee fail to agree on an arbitrator to serve as a hearing offi-
21 cer from the list of potential hearing officers, or fail to notify the
22 commissioner of a selection within such fifteen day time period, the
23 commissioner shall appoint a hearing officer from the list. The
24 provisions of this subparagraph shall not apply in cities with a popu-
25 lation of one million or more with alternative procedures specified in
26 section three thousand twenty of this article.

27 (iv) In those cases commenced by the filing of charges prior to April
28 first, two thousand fifteen in which the employee elects to have the

1 charges heard by a hearing panel, the hearing panel shall consist of the
2 hearing officer, selected in accordance with this subdivision, and two
3 additional persons, one selected by the employee and one selected by the
4 employing board, from a list maintained for such purpose by the commis-
5 sioner. The list shall be composed of professional personnel with admin-
6 istrative or supervisory responsibility, professional personnel without
7 administrative or supervisory responsibility, chief school administra-
8 tors, members of employing boards and others selected from lists of
9 nominees submitted to the commissioner by statewide organizations
10 representing teachers, school administrators and supervisors and the
11 employing boards. Hearing panel members other than the hearing officer
12 shall be compensated by the department at the rate of one hundred
13 dollars for each day of actual service plus necessary travel and subsis-
14 tence expenses. The hearing officer shall be compensated as set forth in
15 this subdivision. The hearing officer shall be the chairperson of the
16 hearing panel.

17 c. Hearing procedures. (i) (A) The commissioner shall have the power
18 to establish necessary rules and procedures for the conduct of hearings
19 under this section.

20 (B) The department shall be authorized to monitor and investigate a
21 hearing officer's compliance with statutory timelines pursuant to this
22 section. The commissioner shall annually inform all hearing officers who
23 have heard cases pursuant to this section during the preceding year that
24 the time periods prescribed in this section for conducting such hearings
25 are to be strictly followed. A record of continued failure to commence
26 and complete hearings within the time periods prescribed in this section
27 shall be considered grounds for the commissioner to exclude such indi-

1 vidual from the list of potential hearing officers sent to the employing
2 board and the employee for such hearings.

3 (C) Such rules shall not require compliance with technical rules of
4 evidence. Hearings shall be conducted by the hearing officer selected
5 pursuant to paragraph b of this subdivision [with full and fair disclo-
6 sure of the nature of the case and evidence against the employee by the
7 employing board] and shall be public or private at the discretion of the
8 employee. Full and fair disclosure of the witnesses and evidence shall
9 be made by both parties in the manner prescribed in articles three and
10 four of the state administrative procedure act. The employee shall have
11 a reasonable opportunity to defend himself or herself and an opportunity
12 to testify in his or her own behalf. The employee shall not be required
13 to testify. Each party shall have the right to be represented by coun-
14 sel, to subpoena witnesses, and to cross-examine witnesses. All testimo-
15 ny taken shall be under oath which the hearing officer is hereby author-
16 ized to administer. Children shall be permitted to testify through sworn
17 written or video statements.

18 (D) An accurate record of the proceedings shall be kept at the expense
19 of the department at each such hearing in accordance with the regu-
20 lations of the commissioner. A copy of the record of the hearings shall,
21 upon request, be furnished without charge to the employee and the board
22 of education involved. The department shall be authorized to utilize any
23 new technology or such other appropriate means to transcribe or record
24 such hearings in an accurate, reliable, efficient and cost-effective
25 manner without any charge to the employee or board of education
26 involved.

27 (i-a) (A) Where charges of incompetence are brought based solely upon a
28 pattern of ineffective teaching or performance of a classroom teacher or

1 principal, as defined in section three thousand twelve-c of this arti-
2 cle, the hearing shall be conducted before and by a single hearing offi-
3 cer in an expedited hearing, which shall commence within seven days
4 after the pre-hearing conference and shall be completed within sixty
5 days after the pre-hearing conference. The hearing officer shall estab-
6 lish a hearing schedule at the pre-hearing conference to ensure that the
7 expedited hearing is completed within the required timeframes and to
8 ensure an equitable distribution of days between the employing board and
9 the charged employee. Notwithstanding any other law, rule or regulation
10 to the contrary, no adjournments may be granted that would extend the
11 hearing beyond such sixty days, except as authorized in this subpara-
12 graph. A hearing officer, upon request, may grant a limited and time
13 specific adjournment that would extend the hearing beyond such sixty
14 days if the hearing officer determines that the delay is attributable to
15 a circumstance or occurrence substantially beyond the control of the
16 requesting party and an injustice would result if the adjournment were
17 not granted.

18 (B) Such charges shall allege that the employing board has developed
19 and substantially implemented a teacher or principal improvement plan in
20 accordance with subdivision four of section three thousand twelve-c of
21 this article for the employee following the first evaluation in which
22 the employee was rated ineffective, and the immediately preceding evalu-
23 ation if the employee was rated developing. Notwithstanding any other
24 provision of law to the contrary, a pattern of ineffective teaching or
25 performance as defined in section three thousand twelve-c of this arti-
26 cle shall [constitute very significant evidence of incompetence for
27 purposes of this section] constitute prima facie evidence of incompe-
28 tence that can only be rebutted by clear and convincing evidence that

1 the calculation of one or more of the teacher's or principal's underly-
2 ing composite ratings on the annual professional performance reviews
3 pursuant to section three thousand twelve-c of this article was fraudu-
4 lent, and if not successfully rebutted, the finding, absent extraor-
5 dinary circumstances, shall be just cause for removal. Nothing in this
6 subparagraph shall be construed to otherwise limit the defenses which
7 the employee may place before the hearing officer in challenging the
8 allegation of a pattern of ineffective teaching or performance, except
9 that failure of the employing board to rehabilitate the teacher or prin-
10 cipal and correct his or her deficiencies shall not be a defense.

11 (C) The commissioner shall annually inform all hearing officers who
12 have heard cases pursuant to this section during the preceding year that
13 the time periods prescribed in this subparagraph for conducting expe-
14 dited hearings are to be strictly followed. A record of continued fail-
15 ure to commence and complete expedited hearings within the time periods
16 prescribed in this subparagraph shall be considered grounds for the
17 commissioner to exclude such individual from the list of potential hear-
18 ing officers sent to the employing board and the employee for such expe-
19 dited hearings.

20 (i-b)(A) Where charges of misconduct constituting physical or sexual
21 abuse of a student are brought, the hearing shall be conducted before
22 and by a single hearing officer in an expedited hearing, which shall
23 commence within seven days after the pre-hearing conference and shall be
24 completed within sixty days after the pre-hearing conference. The hear-
25 ing officer shall establish a hearing schedule at the pre-hearing
26 conference to ensure that the expedited hearing is completed within the
27 required timeframes and to ensure an equitable distribution of days
28 between the employing board and the charged employee. Notwithstanding

1 any other law, rule or regulation to the contrary, no adjournments may
2 be granted that would extend the hearing beyond such sixty days, except
3 as authorized in this subparagraph. A hearing officer, upon request, may
4 grant a limited and time specific adjournment that would extend the
5 hearing beyond such sixty days if the hearing officer determines that
6 the delay is attributable to a circumstance or occurrence substantially
7 beyond the control of the requesting party and an injustice would result
8 if the adjournment were not granted.

9 (B) The commissioner shall annually inform all hearing officers who
10 have heard cases pursuant to this section during the preceding year that
11 the time periods prescribed in this subparagraph for conducting expe-
12 ditated hearings are to be strictly followed and failure to do so shall be
13 considered grounds for the commissioner to exclude such individual from
14 the list of potential hearing officers sent to the employing board and
15 the employee for such expedited hearings.

16 (ii) The hearing officer selected to conduct a hearing under this
17 section shall, within ten to fifteen days of agreeing to serve in such
18 position, hold a pre-hearing conference which shall be held in the
19 school district or county seat of the county, or any county, wherein the
20 employing school board is located. The pre-hearing conference shall be
21 limited in length to one day except that the hearing officer, in his or
22 her discretion, may allow one additional day for good cause shown.

23 (iii) At the pre-hearing conference the hearing officer shall have the
24 power to:

25 (A) issue subpoenas;

26 (B) hear and decide all motions, including but not limited to motions
27 to dismiss the charges;

1 (C) hear and decide all applications for bills of particular or
2 requests for production of materials or information, including, but not
3 limited to, any witness statement (or statements), investigatory state-
4 ment (or statements) or note (notes), exculpatory evidence or any other
5 evidence, including district or student records, relevant and material
6 to the employee's defense.

7 (iv) Any pre-hearing motion or application relative to the sufficiency
8 of the charges, application or amendment thereof, or any preliminary
9 matters shall be made upon written notice to the hearing officer and the
10 adverse party no less than five days prior to the date of the pre-hear-
11 ing conference. Any pre-hearing motions or applications not made as
12 provided for herein shall be deemed waived except for good cause as
13 determined by the hearing officer.

14 (v) In the event that at the pre-hearing conference the employing
15 board presents evidence that the professional license of the employee
16 has been revoked and all judicial and administrative remedies have been
17 exhausted or foreclosed, the hearing officer shall schedule the date,
18 time and place for an expedited hearing, which hearing shall commence
19 not more than seven days after the pre-hearing conference and which
20 shall be limited to one day. The expedited hearing shall be held in the
21 local school district or county seat of the county or any county, where-
22 in the said employing board is located. The expedited hearing shall not
23 be postponed except upon the request of a party and then only for good
24 cause as determined by the hearing officer. At such hearing, each party
25 shall have equal time in which to present its case.

26 (vi) During the pre-hearing conference, the hearing officer shall
27 determine the reasonable amount of time necessary for a final hearing on
28 the charge or charges and shall schedule the location, time(s) and

1 date(s) for the final hearing. The final hearing shall be held in the
2 local school district or county seat of the county, or any county, wher-
3 ein the said employing school board is located. In the event that the
4 hearing officer determines that the nature of the case requires the
5 final hearing to last more than one day, the days that are scheduled for
6 the final hearing shall be consecutive. The day or days scheduled for
7 the final hearing shall not be postponed except upon the request of a
8 party and then only for good cause shown as determined by the hearing
9 officer. In all cases, the final hearing shall be completed no later
10 than sixty days after the pre-hearing conference unless the hearing
11 officer determines that extraordinary circumstances warrant a limited
12 extension.

13 (vii) All evidence shall be submitted by all parties within one
14 hundred twenty-five days of the filing of charges and no additional
15 evidence shall be accepted after such time, absent extraordinary circum-
16 stances beyond the control of the parties.

17 d. Limitation on claims. Notwithstanding any other provision of law,
18 rule or regulation to the contrary, no payments shall be made by the
19 department pursuant to this subdivision on or after April first, two
20 thousand twelve for: (i) compensation of a hearing officer or hearing
21 panel member, (ii) reimbursement of such hearing officers or panel
22 members for necessary travel or other expenses incurred by them, or
23 (iii) for other hearing expenses on a claim submitted later than one
24 year after the final disposition of the hearing by any means, including
25 settlement, or within ninety days after the effective date of this para-
26 graph, whichever is later; provided that no payment shall be barred or
27 reduced where such payment is required as a result of a court order or
28 judgment or a final audit.

1 4. Post hearing procedures. a. The hearing officer shall render a
2 written decision within thirty days of the last day of the final hear-
3 ing, or in the case of an expedited hearing within ten days of such
4 expedited hearing, and shall forward a copy thereof to the commissioner
5 who shall immediately forward copies of the decision to the employee and
6 to the clerk or secretary of the employing board. The written decision
7 shall include the hearing officer's findings of fact on each charge, his
8 or her conclusions with regard to each charge based on said findings and
9 shall state what penalty or other action, if any, shall be taken by the
10 employing board. [At the request of the employee, in determining what,
11 if any, penalty or other action shall be imposed, the hearing officer
12 shall consider the extent to which the employing board made efforts
13 towards correcting the behavior of the employee which resulted in charg-
14 es being brought under this section through means including but not
15 limited to: remediation, peer intervention or an employee assistance
16 plan.] Failure of the employing board to remediate or correct the behav-
17 ior of the employee shall not be a defense to any charges and shall not
18 be considered by the hearing officer in determining the penalty or other
19 action to be imposed. In those cases where a penalty is imposed, such
20 penalty may be a written reprimand, a fine, suspension for a fixed time
21 without pay, or dismissal. In addition to or in lieu of the aforemen-
22 tioned penalties, the hearing officer[, where he or she deems appropri-
23 ate,] may impose upon the employee remedial action including but not
24 limited to leaves of absence with or without pay, continuing education
25 and/or study, a requirement that the employee seek counseling or medical
26 treatment or that the employee engage in any other remedial or combina-
27 tion of remedial actions. Provided, however, that the hearing officer
28 shall adopt the penalty recommended by the employing board except where

1 the hearing officer concludes that the board acted in bad faith or there
2 are extraordinary circumstances in which the recommended penalty would
3 be so disproportionate to the offenses proven as to be shocking to the
4 conscience of the hearing officer.

5 b. Within fifteen days of receipt of the hearing officer's decision
6 the employing board shall implement the decision. If the employee is
7 acquitted he or she shall be restored to his or her position with full
8 pay for any period of suspension without pay and the charges expunged
9 from the employment record. If an employee who was convicted of a felony
10 crime specified in paragraph b of subdivision two of this section, has
11 said conviction reversed, the employee, upon application, shall be enti-
12 tled to have his or her pay and other emoluments restored, for the peri-
13 od from the date of his or her suspension to the date of the decision.

14 c. The hearing officer shall indicate in the decision whether any of
15 the charges brought by the employing board were frivolous as defined in
16 section eighty-three hundred three-a of the civil practice law and
17 rules. If the hearing officer finds that all of the charges brought
18 against the employee were frivolous, the hearing officer shall order the
19 employing board to reimburse the department the reasonable costs said
20 department incurred as a result of the proceeding and to reimburse the
21 employee the reasonable costs, including but not limited to reasonable
22 attorneys' fees, the employee incurred in defending the charges. If the
23 hearing officer finds that some but not all of the charges brought
24 against the employee were frivolous, the hearing officer shall order the
25 employing board to reimburse the department a portion, in the discretion
26 of the hearing officer, of the reasonable costs said department incurred
27 as a result of the proceeding and to reimburse the employee a portion,
28 in the discretion of the hearing officer, of the reasonable costs,

1 including but not limited to reasonable attorneys' fees, the employee
2 incurred in defending the charges.

3 5. Appeal. a. Not later than ten days after receipt of the hearing
4 officer's decision, the employee or the employing board may make an
5 application to the New York state supreme court to vacate or modify the
6 decision of the hearing officer pursuant to section seventy-five hundred
7 eleven of the civil practice law and rules. The court's review shall be
8 limited to the grounds set forth in such section. The hearing panel's
9 determination shall be deemed to be final for the purpose of such
10 proceeding.

11 b. In no case shall the filing or the pendency of an appeal delay the
12 implementation of the decision of the hearing officer.

13 § 4. Paragraph j of subdivision 5-a of section 3012-c of the education
14 law, as added by chapter 21 of the laws of 2012, is amended to read as
15 follows:

16 j. If a teacher receives an ineffective rating for a school year in
17 which the teacher is in year two status and the independent validator
18 agrees, the district may bring a proceeding pursuant to sections three
19 thousand twenty and three thousand twenty-a of this article based on a
20 pattern of ineffective teaching or performance. In such proceeding, the
21 charges shall allege that the employing board has developed and substan-
22 tially implemented a teacher improvement plan in accordance with subdi-
23 vision four of this section for the employee following the evaluation
24 made for the year in which the employee was in year one status and was
25 rated ineffective. The pattern of ineffective teaching or performance
26 shall [give rise to a rebuttable presumption of incompetence and if the
27 presumption is not successfully rebutted, the finding, absent extraor-
28 dinary circumstances, shall be just cause for removal] constitute prima

1 facie evidence of incompetence that can only be rebutted by clear and
2 convincing evidence that the calculation of one or more of the teacher's
3 or principal's underlying composite ratings on the annual professional
4 performance reviews pursuant to this section was fraudulent, and if not
5 successfully rebutted, the finding, absent extraordinary circumstances,
6 shall be just cause for removal. In these hearings, the teacher shall
7 have up to three days to present his or her case for every one day used
8 by the district to present its case. The hearing officer shall render a
9 written decision within ten days of the last day of the hearing.

10 § 5. This act shall take effect April 1, 2015 and shall apply to hear-
11 ings commenced by the filing or service of charges on or after April 1,
12 2015, provided that effective immediately, the commissioner of education
13 shall be authorized to promulgate any regulations needed to implement
14 the provisions of this act on such effective date.

15 SUBPART F

16 Section 1. Paragraph (a) of subdivision 1 of section 2856 of the
17 education law, as amended by section 3 of part BB of chapter 56 of the
18 laws of 2014, is amended to read as follows:

19 (a) The enrollment of students attending charter schools shall be
20 included in the enrollment, attendance, membership and, if applicable,
21 count of students with disabilities of the school district in which the
22 pupil resides. The charter school shall report all such data to the
23 school districts of residence in a timely manner. Each school district
24 shall report such enrollment, attendance and count of students with
25 disabilities to the department. The school district of residence shall
26 pay directly to the charter school for each student enrolled in the

1 charter school who resides in the school district the charter school
2 basic tuition, which shall be:

3 (i) for school years prior to the two thousand nine--two thousand ten
4 school year and for school years following the two thousand sixteen--two
5 thousand seventeen school year, an amount equal to one hundred percent
6 of the amount calculated pursuant to paragraph f of subdivision one of
7 section thirty-six hundred two of this chapter for the school district
8 for the year prior to the base year increased by the percentage change
9 in the state total approved operating expense calculated pursuant to
10 paragraph t of subdivision one of section thirty-six hundred two of this
11 chapter from two years prior to the base year to the base year;

12 (ii) for the two thousand nine--two thousand ten school year, the
13 charter school basic tuition shall be the amount payable by such
14 district as charter school basic tuition for the two thousand eight--two
15 thousand nine school year;

16 (iii) for the two thousand ten--two thousand eleven through two thou-
17 sand thirteen--two thousand fourteen school years, the charter school
18 basic tuition shall be the basic tuition computed for the two thousand
19 ten--two thousand eleven school year pursuant to the provisions of
20 subparagraph (i) of this paragraph;

21 (iv) for the two thousand fourteen--two thousand fifteen, two thousand
22 fifteen--two thousand sixteen and two thousand sixteen--two thousand
23 seventeen school years, the charter school basic tuition shall be the
24 sum of the lesser of the charter school basic tuition computed for the
25 two thousand ten--two thousand eleven school year pursuant to the
26 provisions of subparagraph (i) of this paragraph or the charter school
27 basic tuition computed for the current year pursuant to the provisions

1 of subparagraph (i) of this paragraph plus the supplemental basic
2 tuition.

3 For the purposes of this subdivision, the "supplemental basic tuition"
4 shall be (A) for a school district for which the charter school basic
5 tuition computed for the current year is greater than or equal to the
6 charter school basic tuition for the two thousand ten--two thousand
7 eleven school year pursuant to the provisions of subparagraph (i) of
8 this paragraph, (1) for the two thousand fourteen--two thousand fifteen
9 school year two hundred and fifty dollars, and (2) for the two thousand
10 fifteen--two thousand sixteen school year [three hundred and fifty] four
11 hundred twenty-five dollars, and (3) for the two thousand sixteen--two
12 thousand seventeen school year five hundred seventy-five dollars, and
13 (B) for a school district for which the charter school basic tuition for
14 the two thousand ten--two thousand eleven school year is greater than
15 the charter school basic tuition for the current year pursuant to the
16 provisions of subparagraph (i) of this paragraph, the positive differ-
17 ence of the charter school basic tuition for the two thousand ten--two
18 thousand eleven school year minus the charter school basic tuition for
19 the current year pursuant to the provisions of subparagraph (i) of this
20 paragraph.

21 § 2. Paragraph (a) of subdivision 1 of section 2856 of the education
22 law, as amended by section 4 of part BB of chapter 56 of the laws of
23 2014, is amended to read as follows:

24 (a) The enrollment of students attending charter schools shall be
25 included in the enrollment, attendance, membership and, if applicable,
26 count of students with disabilities of the school district in which the
27 pupil resides. The charter school shall report all such data to the
28 school districts of residence in a timely manner. Each school district

1 shall report such enrollment, attendance and count of students with
2 disabilities to the department. The school district of residence shall
3 pay directly to the charter school for each student enrolled in the
4 charter school who resides in the school district the charter school
5 basic tuition which shall be:

6 (i) for school years prior to the two thousand nine--two thousand ten
7 school year and for school years following the two thousand sixteen--two
8 thousand seventeen school year, an amount equal to one hundred percent
9 of the amount calculated pursuant to paragraph f of subdivision one of
10 section thirty-six hundred two of this chapter for the school district
11 for the year prior to the base year increased by the percentage change
12 in the state total approved operating expense calculated pursuant to
13 paragraph t of subdivision one of section thirty-six hundred two of this
14 chapter from two years prior to the base year to the base year;

15 (ii) for the two thousand nine--two thousand ten school year, the
16 charter school basic tuition shall be the amount payable by such
17 district as charter school basic tuition for the two thousand eight--two
18 thousand nine school year;

19 (iii) for the two thousand ten--two thousand eleven through two thou-
20 sand thirteen--two thousand fourteen school years, the charter school
21 basic tuition shall be the basic tuition computed for the two thousand
22 ten--two thousand eleven school year pursuant to the provisions of
23 subparagraph (i) of this paragraph;

24 (iv) for the two thousand fourteen--two thousand fifteen, two thousand
25 fifteen--two thousand sixteen and two thousand sixteen--two thousand
26 seventeen school years, the charter school basic tuition shall be the
27 sum of the lesser of the charter school basic tuition computed for the
28 two thousand ten--two thousand eleven school year pursuant to the

1 provisions of subparagraph (i) of this paragraph or the charter school
2 basic tuition computed for the current year pursuant to the provisions
3 of subparagraph (i) of this paragraph plus the supplemental basic
4 tuition.

5 For the purposes of this subdivision, the "supplemental basic tuition"
6 shall be (A) for a school district for which the charter school basic
7 tuition computed for the current year is greater than or equal to the
8 charter school basic tuition for the two thousand ten--two thousand
9 eleven school year pursuant to the provisions of subparagraph (i) of
10 this paragraph, (1) for the two thousand fourteen--two thousand fifteen
11 school year two hundred and fifty dollars, and (2) for the two thousand
12 fifteen--two thousand sixteen school year [three hundred and fifty] four
13 hundred twenty-five dollars, and (3) for the two thousand sixteen--two
14 thousand seventeen school year five hundred seventy-five dollars, and
15 (B) for a school district for which the charter school basic tuition for
16 the two thousand ten--two thousand eleven school year is greater than
17 the charter school basic tuition for the current year pursuant to the
18 provisions of subparagraph (i) of this paragraph, the positive differ-
19 ence of the charter school basic tuition for the two thousand ten--two
20 thousand eleven school year minus the charter school basic tuition for
21 the current year pursuant to the provisions of subparagraph (i) of this
22 paragraph.

23 § 3. Subdivisions 9 and 9-a of section 2852 of the education law,
24 subdivision 9 as amended and subdivision 9-a as added by chapter 101 of
25 the laws of 2010, paragraph (a) of subdivision 9-a as amended by chapter
26 221 of the laws of 2010, paragraph (f) of subdivision 9-a as amended by
27 chapter 102 of the laws of 2010, are amended to read as follows:

1 9. The total number of charters issued pursuant to this article state-
2 wide shall not exceed [four] five hundred sixty. (a) [One hundred of
3 such charters shall be issued on the recommendation of the charter enti-
4 ty described in paragraph (b) of subdivision three of section twenty-
5 eight hundred fifty-one of this article; (b) one hundred of such char-
6 ters shall be issued on the recommendation of the other charter entities
7 set forth in subdivision three of section twenty-eight hundred fifty-one
8 of this article; (c) up to fifty of the additional charters authorized
9 to be issued by the chapter of the laws of two thousand seven which
10 amended this subdivision effective July first, two thousand seven shall
11 be reserved for a city school district of a city having a population of
12 one million or more; (d) one hundred thirty charters shall be issued by
13 the board of regents pursuant to a competitive process in accordance
14 with subdivision nine-a of this section, provided that no more than
15 fifty-seven of such charters shall be granted to a charter for a school
16 to be located in a city having a population of one million or more; (e)
17 one hundred thirty charters shall be issued by the board of regents on
18 the recommendation of the board of trustees of the state university of
19 New York pursuant to a competitive process in accordance with subdivi-
20 sion nine-a of this section, provided that no more than fifty-seven of
21 such charters shall be granted to a charter for a school to be located
22 in a city having a population of one million or more] All charters
23 issued on or after February first, two thousand fifteen and counted
24 toward the numerical limits established by this subdivision shall be
25 issued by the board of regents upon application directly to the board of
26 regents or on the recommendation of the board of trustees of the state
27 university of New York pursuant to a competitive process in accordance
28 with subdivision nine-a of this section. The failure of any body to

1 issue the regulations authorized pursuant to this article shall not
2 affect the authority of a charter entity to propose a charter to the
3 board of regents or the board of regents' authority to grant such char-
4 ter. A conversion of an existing public school to a charter school or
5 the renewal or extension of a charter approved by any charter entity
6 shall not be counted toward the numerical limits established by this
7 subdivision.

8 (b) A charter school whose charter has been surrendered, revoked or
9 terminated, including a charter that has not been renewed by action of
10 its charter entity, shall not be counted toward the numerical limits
11 established by this subdivision and instead shall be returned to the
12 statewide pool and may be reissued by the board of regents either upon
13 application directly to the board of regents or on the recommendation of
14 the board of trustees of the state university of New York pursuant to a
15 competitive process in accordance with subdivision nine-a of this
16 section.

17 (c) For purposes of determining the total number of charters issued
18 within the numerical limits established by this subdivision, the
19 approval date of the chartering entity shall be the determining factor.

20 9-a. (a) The board of regents is hereby authorized and directed to
21 issue [two] up to five hundred sixty charters upon either applications
22 submitted directly to the board of regents or applications recommended
23 by the board of trustees of the state university of New York pursuant to
24 a competitive request for proposals process.

25 [(i) Commencing on August first, two thousand ten through September
26 first, two thousand thirteen, the board of regents and the board of
27 trustees of the state university of New York shall each issue a request
28 for proposals in accordance with this subdivision and this subparagraph:

1 (1) Each request for proposals to be issued by the board of regents
2 and the board of trustees of the state university of New York on August
3 first, two thousand ten shall be for a maximum of thirty-two charters to
4 be issued for charter schools which would commence instructional opera-
5 tion by the September of the next calendar year.

6 (2) Each request for proposals to be issued by the board of regents
7 and the board of trustees of the state university of New York on January
8 first, two thousand eleven shall be for a maximum of thirty-three char-
9 ters to be issued for charter schools which would commence instructional
10 operation by the September of the next calendar year.

11 (3) Each request for proposals to be issued by the board of regents
12 and the board of trustees of the state university of New York on January
13 first, two thousand twelve shall be for a maximum of thirty-two charters
14 to be issued for charter schools which would commence instructional
15 operation by the September of the next calendar year.

16 (4) Each request for proposals to be issued by the board of regents
17 and the board of trustees of the state university of New York on Septem-
18 ber first, two thousand thirteen shall be for a maximum of thirty-three
19 charters to be issued for charter schools which would commence instruc-
20 tional operation by the September of the next calendar year.

21 (ii) If after September first, two thousand thirteen, either the board
22 of regents or the board of trustees of the state university of New York
23 have any charters which have not yet been issued, they may be issued
24 pursuant to requests for proposals issued in each succeeding year, with-
25 out limitation as to when such requests for proposals may be issued, or
26 a limitation on the number of charters which may be issued.

27 (iii) Notwithstanding the provisions of clauses one, two, three and
28 four of subparagraph (i) of this paragraph and subparagraph (ii) of this

1 paragraph, if fewer charters are issued than were requested in such
2 request for proposals, the difference may be added to the number of
3 charters requested in the request for proposals issued in each succeed-
4 ing year.

5 (iv)] The board of regents shall make a determination to issue a char-
6 ter pursuant to a request for proposals no later than December thirty-
7 first of each year.

8 (b) The board of regents and the board of trustees of the state
9 university of New York shall each develop such request for proposals in
10 a manner that facilitates a thoughtful review of charter school applica-
11 tions, considers the demand for charter schools by the community, and
12 seeks to locate charter schools in a region or regions where there may
13 be a lack of alternatives and access to charter schools would provide
14 new alternatives within the local public education system that would
15 offer the greatest educational benefit to students. Applications shall
16 be evaluated in accordance with the criteria and objectives contained
17 within a request for proposals. The board of regents and the board of
18 trustees of the state university of New York shall not consider any
19 applications which do not rigorously demonstrate that they have met the
20 following criteria:

21 (i) that the proposed charter school would meet or exceed enrollment
22 and retention targets, as prescribed by the board of regents or the
23 board of trustees of the state university of New York, as applicable, of
24 students with disabilities, English language learners, and students who
25 are eligible applicants for the free and reduced price lunch program.
26 When developing such targets, the board of regents and the board of
27 trustees of the state university of New York, shall ensure (1) that such
28 enrollment targets are comparable to the enrollment figures of such

1 categories of students attending the public schools within the school
2 district, or in a city school district in a city having a population of
3 one million or more inhabitants, the community school district, in which
4 the proposed charter school would be located; and (2) that such
5 retention targets are comparable to the rate of retention of such cate-
6 gories of students attending the public schools within the school
7 district, or in a city school district in a city having a population of
8 one million or more inhabitants, the community school district, in which
9 the proposed charter school would be located; and

10 (ii) that the applicant has conducted public outreach, in conformity
11 with a thorough and meaningful public review process prescribed by the
12 board of regents and the board of trustees of the state university of
13 New York, to solicit community input regarding the proposed charter
14 school and to address comments received from the impacted community
15 concerning the educational and programmatic needs of students.

16 (c) The board of regents and the board of trustees of the state
17 university of New York shall grant priority based on a scoring rubric to
18 those applications that best demonstrate how they will achieve the
19 following objectives, and any additional objectives the board of regents
20 and the board of trustees of the state university of New York, may
21 prescribe:

22 (i) increasing student achievement and decreasing student achievement
23 gaps in reading/language arts and mathematics;

24 (ii) increasing high school graduation rates and focusing on serving
25 specific high school student populations including, but not limited to,
26 students at risk of not obtaining a high school diploma, re-enrolled
27 high school drop-outs, and students with academic skills below grade
28 level;

1 (iii) focusing on the academic achievement of middle school students
2 and preparing them for a successful transition to high school;

3 (iv) utilizing high-quality assessments designed to measure a
4 student's knowledge, understanding of, and ability to apply, critical
5 concepts through the use of a variety of item types and formats;

6 (v) increasing the acquisition, adoption, and use of local instruc-
7 tional improvement systems that provide teachers, principals, and admin-
8 istrators with the information and resources they need to inform and
9 improve their instructional practices, decision-making, and overall
10 effectiveness;

11 (vi) partnering with low performing public schools in the area to
12 share best educational practices and innovations;

13 (vii) demonstrating the management and leadership techniques necessary
14 to overcome initial start-up problems to establish a thriving, finan-
15 cially viable charter school;

16 (viii) demonstrating the support of the school district in which the
17 proposed charter school will be located and the intent to establish an
18 ongoing relationship with such school district.

19 (d) No later than November first, two thousand ten, and of each
20 succeeding year, after a thorough review of applications received, the
21 board of trustees of the state university of New York shall recommend
22 for approval to the board of regents the qualified applications that it
23 has determined rigorously demonstrate the criteria and best satisfy the
24 objectives contained within a request for proposals, along with support-
25 ing documentation outlining such determination.

26 (e) Upon receipt of a proposed charter to be issued pursuant to this
27 subdivision submitted by a charter entity, the board of regents or the
28 board of trustees of the state university of New York, shall review,

1 recommend and issue, as applicable, such charters in accordance with the
2 standards established in this subdivision.

3 (f) The board of regents shall be the only entity authorized to issue
4 a charter pursuant to this article. The board of regents shall consider
5 applications submitted directly to the board of regents and applications
6 recommended by the board of trustees of the state university of New
7 York. Provided, however, that all such recommended applications shall be
8 deemed approved and issued pursuant to the provisions of subdivisions
9 five, five-a and five-b of this section.

10 (g) Each application submitted in response to a request for proposals
11 pursuant to this subdivision shall also meet the application require-
12 ments set out in this article and any other applicable laws, rules and
13 regulations.

14 (h) During the development of a request for proposals pursuant to this
15 subdivision the board of regents and the board of trustees of the state
16 university of New York shall each afford the public an opportunity to
17 submit comments and shall review and consider the comments raised by all
18 interested parties.

19 § 4. Paragraph (b) of subdivision 2 of section 2854 of the education
20 law, as amended by chapter 101 of the laws of 2010, is amended to read
21 as follows:

22 (b) Any child who is qualified under the laws of this state for admis-
23 sion to a public school is qualified for admission to a charter school.
24 Applications for admission to a charter school shall be submitted on a
25 uniform application form created by the department and shall be made
26 available by a charter school in languages predominately spoken in the
27 community in which such charter school is located. The school shall
28 enroll each eligible student who submits a timely application by the

1 first day of April each year, unless the number of applications exceeds
2 the capacity of the grade level or building. In such cases, students
3 shall be accepted from among applicants by a random selection process,
4 provided, however, that an enrollment preference shall be provided to
5 pupils returning to the charter school in the second or any subsequent
6 year of operation and pupils residing in the school district in which
7 the charter school is located, and siblings of pupils already enrolled
8 in the charter school. Preference shall also be provided to (i) students
9 who are eligible applicants for the free and reduced price lunch
10 program, (ii) students who are currently attending or would otherwise
11 attend a school district or school designated as chronically underper-
12 forming pursuant to sections two hundred eleven-f and two hundred
13 eleven-g of this chapter, and (iii) children of employees of the charter
14 school, provided that such children of employees may only constitute a
15 small percentage of the charter school's total enrollment. The commis-
16 sioner shall establish regulations to require that the random selection
17 process conducted pursuant to this paragraph be performed in a transpar-
18 ent and equitable manner and to require that the time and place of the
19 random selection process be publicized in a manner consistent with the
20 requirements of section one hundred four of the public officers law and
21 be open to the public. For the purposes of this paragraph and paragraph
22 (a) of this subdivision, the school district in which the charter school
23 is located shall mean, for the city school district of the city of New
24 York, the community district in which the charter school is located.

25 § 5. Paragraphs (d) and (e) of subdivision 1 of section 2855 of the
26 education law, paragraph (d) as amended and paragraph (e) as added by
27 chapter 101 of the laws of 2010, are amended, and a new paragraph (f) is
28 added to read as follows:

1 (d) When the public employment relations board makes a determination
2 that the charter school demonstrates a practice and pattern of egregious
3 and intentional violations of subdivision one of section two hundred
4 nine-a of the civil service law involving interference with or discrimi-
5 nation against employee rights under article fourteen of the civil
6 service law; [or]

7 (e) Repeated failure to comply with the requirement to meet or exceed
8 enrollment and retention targets of students with disabilities, English
9 language learners, and students who are eligible applicants for the free
10 and reduced price lunch program pursuant to targets established by the
11 board of regents or the board of trustees of the state university of New
12 York, as applicable. Provided, however, if no grounds for terminating a
13 charter are established pursuant to this section other than pursuant to
14 this paragraph, and the charter school demonstrates that it has made
15 extensive efforts to recruit and retain such students, including
16 outreach to parents and families in the surrounding communities, widely
17 publicizing the lottery for such school, and efforts to academically
18 support such students in such charter school, then the charter entity or
19 board of regents may retain such charter[.]; or

20 (f) Repeated failure to comply with the data reporting requirements
21 prescribed in subdivisions two and two-a of section twenty-eight hundred
22 fifty-seven of this article, including but not limited to the end of the
23 year reporting requirements on the enrollment and retention of students
24 with limited English proficiency; the number of students with disabili-
25 ties and the number of students identified as eligible for free and
26 reduced price lunches.

27 § 6. Section 2857 of the education law is amended by adding a new
28 subdivision 2-a to read as follows:

1 2-a. No later than the first day of August of each school year, (for
2 data for the preceding school year) and bi-monthly thereafter for the
3 current school year data, each charter school shall submit to the board
4 of regents data on enrollment rates, including but not limited to the
5 number of students with limited English proficiency; the number of
6 students with disabilities and the number of students identified as
7 eligible for free and reduced price lunches and any other additional
8 requirements prescribed by the board of regents in the rules of the
9 board of regents.

10 § 7. This act shall take effect immediately; provided that the amend-
11 ments to subdivision 1 of section 2856 of the education law made by
12 section one of this act shall be subject to the expiration and reversion
13 of such subdivision pursuant to subdivision d of section 27 of chapter
14 378 of the laws of 2007, as amended, when upon such date the provisions
15 of section two of this act shall take effect.

16 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
17 sion, section or part of this act shall be adjudged by any court of
18 competent jurisdiction to be invalid, such judgment shall not affect,
19 impair, or invalidate the remainder thereof, but shall be confined in
20 its operation to the clause, sentence, paragraph, subdivision, section
21 or part thereof directly involved in the controversy in which such judg-
22 ment shall have been rendered. It is hereby declared to be the intent of
23 the legislature that this act would have been enacted even if such
24 invalid provisions had not been included herein.

25 § 3. This act shall take effect immediately provided, however, that
26 the applicable effective date of Subparts A through F of this act shall
27 be as specifically set forth in the last section of such Subparts.

1

PART B

2 Section 1. Subparagraph 1 of paragraph a of subdivision 2 of section
3 3012-c of the education law, as amended by chapter 21 of the laws of
4 2012, is amended to read as follows:

5 (1) [The] (i) For school years prior to the two thousand fifteen--two
6 thousand sixteen school year, annual professional performance reviews
7 conducted pursuant to this section for classroom teachers and building
8 principals shall differentiate teacher and principal effectiveness using
9 the following quality rating categories: highly effective, effective,
10 developing and ineffective, with explicit minimum and maximum scoring
11 ranges for each category, for the state assessments and other comparable
12 measures subcomponent of the evaluation and for the locally selected
13 measures of student achievement subcomponent of the evaluation, as
14 prescribed in the regulations of the commissioner. There shall be:
15 [(i)] (A) a state assessments and other comparable measures subcomponent
16 which shall comprise twenty or twenty-five percent of the evaluation;
17 [(ii)] (B) a locally selected measures of student achievement subcompo-
18 nent which shall comprise twenty or fifteen percent of the evaluation;
19 and [(iii)] (C) an other measures of teacher or principal effectiveness
20 subcomponent which shall comprise the remaining sixty percent of the
21 evaluation, which in sum shall constitute the composite teacher or prin-
22 cipal effectiveness score. Such annual professional performance reviews
23 shall result in a single composite teacher or principal effectiveness
24 score, which incorporates multiple measures of effectiveness related to
25 the criteria included in the regulations of the commissioner.

26 (ii) For the two thousand fifteen--two thousand sixteen school year
27 and thereafter, annual professional performance reviews conducted pursu-

1 ant to this section for classroom teachers and building principals shall
2 differentiate teacher and principal effectiveness using the following
3 quality rating categories: highly effective, effective, developing and
4 ineffective, with explicit minimum and maximum scoring ranges for each
5 category, for the state assessments and other comparable measures
6 subcomponent and the other measures of teacher and leader effectiveness
7 subcomponent, as prescribed in the regulations of the commissioner.
8 There shall be: (A) a state assessments and other comparable measures
9 subcomponent which shall comprise fifty percent of the evaluation; and
10 (B) an other measures of teacher or principal effectiveness subcomponent
11 which shall comprise the remaining fifty percent of the evaluation,
12 pursuant to criteria included in the regulations of the commissioner.

13 § 2. Subparagraphs 3, 4, 5, 6, 7 and 8 of paragraph a of subdivision 2
14 of section 3012-c of the education law, as amended by chapter 21 of the
15 laws of 2012, are amended to read as follows:

16 (3) For annual professional performance reviews conducted in accord-
17 ance with paragraph b of this subdivision for the two thousand eleven--
18 two thousand twelve school year and for annual professional performance
19 reviews conducted in accordance with paragraph f of this subdivision for
20 the two thousand twelve--two thousand thirteen [school year], two thou-
21 sand thirteen--two thousand fourteen and two thousand fourteen--two
22 thousand fifteen school years for classroom teachers in subjects and
23 grades for which the board of regents has not approved a value-added
24 model and for building principals employed in schools or programs for
25 which there is no approved principal value-added model, the scoring
26 ranges for the student growth on state assessments or other comparable
27 measures subcomponent shall be in accordance with this subparagraph. A
28 classroom teacher and building principal shall receive:

1 (A) a highly effective rating in this subcomponent if the teacher's or
2 principal's results are well-above the state average for similar
3 students and they achieve a subcomponent score of 18-20;

4 (B) an effective rating in this subcomponent if the teacher's or prin-
5 cipal's results meet the state average for similar students and they
6 achieve a subcomponent score of 9-17; or

7 (C) a developing rating in this subcomponent if the teacher's or prin-
8 cipal's results are below the state average for similar students and
9 they achieve a subcomponent score of 3-8; or

10 (D) an ineffective rating in this subcomponent, if the teacher's or
11 principal's results are well-below the state average for similar
12 students and they achieve a subcomponent score of 0-2.

13 (4) For annual professional performance reviews conducted in accord-
14 ance with paragraph g of this subdivision for the two thousand twelve--
15 two thousand thirteen [school year], two thousand thirteen--two thousand
16 fourteen and two thousand fourteen--two thousand fifteen school years
17 for classroom teachers in subjects and grades for which the board of
18 regents has approved a value-added model and for building principals
19 employed in schools or programs for which there is an approved principal
20 value-added model, the scoring ranges for the student growth on state
21 assessments or other comparable measures subcomponent shall be in
22 accordance with this subparagraph. A classroom teacher and building
23 principal shall receive:

24 (A) a highly effective rating in this subcomponent if the teacher's or
25 principal's results are well-above the state average for similar
26 students and they achieve a subcomponent score of 22-25;

1 (B) an effective rating in this subcomponent if the teacher's or prin-
2 cipal's results meet the state average for similar students and they
3 achieve a subcomponent score of 10-21; or

4 (C) a developing rating in this subcomponent if the teacher's or prin-
5 cipal's results are below the state average for similar students and
6 they achieve a subcomponent score of 3-9; or

7 (D) an ineffective rating in this subcomponent, if the teacher's or
8 principal's results are well-below the state average for similar
9 students and they achieve a subcomponent score of 0-2.

10 (5) For annual professional performance reviews conducted in accord-
11 ance with paragraph b of this subdivision for the two thousand eleven--
12 two thousand twelve school year and for annual professional performance
13 reviews conducted in accordance with paragraph f of this subdivision for
14 the two thousand twelve--two thousand thirteen [school year], two thou-
15 sand thirteen--two thousand fourteen and two thousand fourteen--two
16 thousand fifteen school years for classroom teachers in subjects and
17 grades for which the board of regents has not approved a value-added
18 model and for building principals employed in schools or programs for
19 which there is no approved principal value-added model, the scoring
20 ranges for the locally selected measures of student achievement subcom-
21 ponent shall be in accordance with this subparagraph. A classroom teach-
22 er and building principal shall receive:

23 (A) a highly effective rating in this subcomponent if the results are
24 well-above district-adopted expectations for student growth or achieve-
25 ment and they achieve a subcomponent score of 18-20; or

26 (B) an effective rating in this subcomponent if the results meet
27 district-adopted expectations for growth or achievement and they achieve
28 a subcomponent score of 9-17; or

1 (C) a developing rating in this subcomponent if the results are below
2 district-adopted expectations for growth or achievement and they achieve
3 a subcomponent score of 3-8; or

4 (D) an ineffective rating in this subcomponent if the results are
5 well-below district-adopted expectations for growth or achievement and
6 they achieve a subcomponent score of 0-2.

7 (6) For annual professional performance reviews conducted in accord-
8 ance with paragraph b of this subdivision for the two thousand eleven--
9 two thousand twelve school year and for annual professional performance
10 reviews conducted in accordance with paragraph g of this subdivision for
11 the two thousand twelve--two thousand thirteen [school year], two thou-
12 sand thirteen--two thousand fourteen and two thousand fourteen--two
13 thousand fifteen school years for classroom teachers in subjects and
14 grades for which the board of regents has approved a value-added model
15 and for building principals employed in schools or programs for which
16 there is an approved principal value-added model, the scoring ranges for
17 the locally selected measures of student achievement subcomponent shall
18 be in accordance with this subparagraph. A classroom teacher and build-
19 ing principal shall receive:

20 (A) a highly effective rating in this subcomponent if the results are
21 well-above district-adopted expectations for student growth or achieve-
22 ment and they achieve a subcomponent score of 14-15; or

23 (B) an effective rating in this subcomponent if the results meet
24 district-adopted expectations for growth or achievement and they achieve
25 a subcomponent score of 8-13; or

26 (C) a developing rating in this subcomponent if the results are below
27 district-adopted expectations for growth or achievement and they achieve
28 a subcomponent score of 3-7; or

1 (D) an ineffective rating in this subcomponent if the results are
2 well-below district-adopted expectations for growth or achievement and
3 they achieve a subcomponent score of 0-2.

4 (7) (A) For the two thousand thirteen--two thousand fourteen [school
5 year] and two thousand fourteen--two thousand fifteen school years and
6 thereafter, the commissioner shall review the specific scoring ranges
7 for each of the rating categories annually before the start of each
8 school year and shall recommend any changes to the board of regents for
9 consideration.

10 (B) Notwithstanding any other provision of law to the contrary, for
11 the two thousand fifteen--two thousand sixteen school year and thereaft-
12 er, a classroom teacher and building principal shall receive ratings on
13 the state growth or other comparable measures subcomponent and the other
14 measures of teacher and principal effectiveness subcomponent pursuant to
15 scoring ranges prescribed by the commissioner in regulations. The
16 commissioner shall review the overall composite scoring ranges annually
17 before the start of each school year and may issue new regulations as he
18 or she deems warranted. Provided; however, if a classroom teacher or
19 building principal receives an ineffective rating on any one of these
20 subcomponents, the highest overall composite rating he or she may
21 receive is developing.

22 (8) Except for the student growth measures on the state assessments or
23 other comparable measures of student growth prescribed in paragraphs e,
24 f and g of this subdivision, the [elements comprising the composite
25 effectiveness score and the] process by which points are assigned to
26 subcomponents shall be locally developed, consistent with the standards
27 prescribed in the regulations of the commissioner and the requirements

1 of this section, through negotiations conducted, pursuant to the
2 requirements of article fourteen of the civil service law.

3 § 3. Subparagraphs 2 and 3 of paragraph c of subdivision 2 of section
4 3012-c of the education law, as amended by chapter 21 of the laws of
5 2012, are amended to read as follows:

6 (2) Subject to paragraph k of this subdivision, for the two thousand
7 twelve--two thousand thirteen and the two thousand thirteen--two thou-
8 sand fourteen school years, the entire annual professional performance
9 review shall be completed and provided to the teacher or principal as
10 soon as practicable but in no case later than September first of the
11 school year next following the school year for which the classroom
12 teacher or building principal's performance is being measured. The
13 teacher's and principal's score and rating on the locally selected meas-
14 ures subcomponent, if available, and on the other measures of teacher
15 and principal effectiveness subcomponent for a teacher's or principal's
16 annual professional performance review shall be computed and provided to
17 the teacher or principal, in writing, by no later than the last day of
18 the school year for which the teacher or principal is being measured.
19 Nothing in this subdivision shall be construed to authorize a teacher or
20 principal to trigger the appeal process prior to receipt of his or her
21 composite effectiveness score and rating.

22 (3) Each such annual professional performance review shall be based on
23 the state assessments or other comparable measures subcomponent, the
24 locally selected measures of student achievement subcomponent in school
25 years where applicable, and the other measures of teacher and principal
26 effectiveness subcomponent, determined in accordance with the applicable
27 provisions of this section and the regulations of the commissioner, for

1 the school year for which the teacher's or principal's performance is
2 measured.

3 § 4. Subparagraph 1 of paragraph f of subdivision 2 of section 3012-c
4 of the education law, as amended by chapter 21 of the laws of 2012, is
5 amended to read as follows:

6 (1) For annual professional performance reviews conducted in accord-
7 ance with paragraph c of this subdivision for the two thousand twelve--
8 two thousand thirteen [school year and thereafter], two thousand thir-
9 teen--two thousand fourteen and two thousand fourteen--two thousand
10 fifteen school years for classroom teachers in subjects and grades for
11 which the board of regents has not approved a value-added model and for
12 building principals employed in schools or programs for which there is
13 no approved principal value-added model, forty percent of the composite
14 score of effectiveness shall be based on student achievement measures as
15 follows: (i) twenty percent of the evaluation shall be based upon
16 student growth data on state assessments as prescribed by the commis-
17 sioner or a comparable measure of student growth if such growth data is
18 not available; and (ii) twenty percent shall be based on other locally
19 selected measures of student achievement that are determined to be
20 rigorous and comparable across classrooms in accordance with the regu-
21 lations of the commissioner and as are developed locally in a manner
22 consistent with procedures negotiated pursuant to the requirements of
23 article fourteen of the civil service law.

24 § 5. Paragraph f of subdivision 2 of section 3012-c of the education
25 law is amended by adding a new subparagraph 5 to read as follows:

26 (5) For the two thousand fifteen--two thousand sixteen school year and
27 thereafter, fifty percent of a classroom teacher's or building princi-
28 pal's composite effectiveness score shall be based on student growth on

1 state assessments, where applicable, or other comparable measures of
2 student growth, as prescribed by the commissioner in regulations;
3 provided that such regulations shall require that any comparable meas-
4 ures of student growth be measured on an annual basis. For the two thou-
5 sand fifteen--two thousand sixteen school year and thereafter, there
6 shall be no locally selected measures of student achievement subcompo-
7 nent.

8 § 6. Paragraphs h, i and j of subdivision 2 of section 3012-c of the
9 education law, paragraph h as amended and paragraph j as added by chap-
10 ter 21 of the laws of 2012 and paragraph i as added by chapter 103 of
11 the laws of 2010, are amended to read as follows:

12 h. [The] For school years prior to the two thousand fifteen--two thou-
13 sand sixteen school year, the remaining sixty percent of the evalu-
14 ations, ratings and effectiveness scores shall be locally developed, and
15 for the two thousand fifteen--two thousand sixteen school year and ther-
16 eafter, the remaining fifty percent of the evaluations, ratings and
17 effectiveness scores shall be locally developed, consistent with the
18 standards prescribed in the regulations of the commissioner, through
19 negotiations conducted pursuant to article fourteen of the civil service
20 law, except as otherwise provided in this section.

21 (1) [A] (i) For school years prior to the two thousand fifteen--two
22 thousand sixteen school year, a majority of the sixty points for class-
23 room teachers shall be based on multiple classroom observations
24 conducted by a principal or other trained administrator, which may be
25 performed in-person or by video. For evaluations for the two thousand
26 twelve--two thousand thirteen school year and thereafter, at least one
27 such observation shall be an unannounced visit.

1 (ii) For the two thousand fifteen--two thousand sixteen school year
2 and thereafter, a minimum of thirty-five of the fifty points must be
3 based on one or more classroom observations conducted by an independent
4 evaluator, at least one of which must be unannounced. An independent
5 evaluator shall be one of the following:

6 (A) a building principal or other trained administrator within or
7 outside the school district, with a demonstrated record of effectiveness
8 as determined by the commissioner, and who is not currently assigned as
9 a principal or administrator in the school in which he or she is
10 conducting the evaluation; or

11 (B) a trained independent evaluator from a list of entities and/or
12 evaluators with a demonstrated record of effectiveness and expertise in
13 teacher training, observation, or effectiveness, as determined by the
14 commissioner including but not limited to retired teachers and adminis-
15 trators; or

16 (C) appointed faculty at a State University of New York or a City
17 University of New York school of education. Provided however that, the
18 department shall provide technical assistance for school districts and
19 boards of cooperative educational services including but not limited to:

20 (a) facilitating partnerships for school districts to implement shared
21 service agreements in order to access neighboring principals or trained
22 administrators;

23 (b) developing and maintaining a list of entities and/or evaluators
24 with a demonstrated record of effectiveness and expertise in teacher
25 training, observation, or effectiveness; or

26 (c) assisting school districts in developing schedules for sharing
27 administrators within a school district; or

1 (d) coordinating with boards of cooperative educational services to
2 provide additional technical assistance.

3 (2) For the remaining portion of these sixty points for evaluations
4 for the two thousand eleven--two thousand twelve school year, the
5 commissioner's regulation shall prescribe the other forms of evidence of
6 teacher and principal effectiveness that may be used.

7 (3) For evaluations of classroom teachers for the two thousand twelve-
8 -two thousand thirteen [school year and thereafter] two thousand thir-
9 teen--two thousand fourteen and two thousand fourteen--two thousand
10 fifteen school years, the remaining portion of these sixty points shall
11 be based on one or more of the following:

12 (i) one or more classroom observations by independent trained evalu-
13 ators selected by the school district or board of cooperative educa-
14 tional services who are teachers or former teachers with a demonstrated
15 record of effectiveness and have no prior affiliation with the school in
16 which they are conducting the evaluation and no other relationship with
17 the teachers being evaluated that would affect their impartiality;

18 (ii) classroom observations by trained in-school peer teachers; and/or

19 (iii) use of a state-approved instrument for parent or student feed-
20 back; and/or

21 (iv) evidence of student development and performance through lesson
22 plans, student portfolios and other artifacts of teacher practices
23 through a structured review process.

24 (4) [A] For evaluations of classroom teachers for the two thousand
25 fifteen--two thousand sixteen school year and thereafter, the remaining
26 portion of the fifty points shall be based on one or more classroom
27 observations conducted by a principal or other trained administrator,

1 which may be performed in-person or by video and at least one such
2 observation shall be an unannounced visit.

3 (5) (i) For school years prior to the two thousand fifteen--two thou-
4 sand sixteen school year, a majority of these sixty points for building
5 principals shall be based on a broad assessment of the principal's lead-
6 ership and management actions based on the principal practice rubric by
7 the building principal's supervisor, a trained administrator or a
8 trained independent evaluator, with one or more visits conducted by the
9 supervisor, and, for evaluations for the two thousand twelve--two thou-
10 sand thirteen school year and thereafter, that such assessment must
11 incorporate multiple school visits by a supervisor, a trained adminis-
12 trator or other trained evaluator, with at least one visit conducted by
13 the supervisor and at least one unannounced visit. For the remaining
14 portion of these sixty points for evaluations for the two thousand
15 eleven--two thousand twelve school year, such regulations shall also
16 prescribe the other forms of evidence of principal effectiveness that
17 may be used consistent with the standards prescribed by the commission-
18 er.

19 [(5)] (6) For evaluations of building principals for the two thousand
20 fifteen--two thousand sixteen school year and thereafter, a minimum of
21 thirty-five of the fifty points shall be based on a broad assessment of
22 the principal's leadership and management actions based on the principal
23 practice rubric as determined by an independent observer following one
24 or more school visits, at least one of which must be unannounced. An
25 independent observer shall be one of the following:

26 (i) A superintendent or other trained administrator that supervises
27 principals from outside the school district or board of cooperative
28 educational services with a demonstrated record of effectiveness, or

1 (ii) A trained independent evaluator from a list of entities and/or
2 evaluators with a demonstrated record of effectiveness and expertise in
3 school building leader training, observation, or effectiveness, as
4 determined by the commissioner, or

5 (iii) appointed faculty at a State University of New York or a City
6 University of New York school of education.

7 Provided that, the department shall provide technical assistance for
8 school districts including but not limited to:

9 (A) facilitating partnerships for school districts to implement shared
10 service agreements in order to access neighboring superintendents or
11 other trained administrators that supervise principals; or

12 (B) developing and maintaining a list of entities and/or evaluators
13 with a demonstrated record of effectiveness and expertise in school
14 building leader training, observation, or effectiveness, as determined
15 by the commissioner, including but not limited to retired administra-
16 tors; or

17 (C) assisting school districts in developing schedules for sharing
18 non-supervising administrators within a school district, if applicable;
19 or

20 (D) coordinating with boards of cooperative educational services to
21 provide additional technical assistance.

22 (7) For evaluations of building principals for the two thousand
23 twelve--two thousand thirteen [school year and thereafter], two thousand
24 thirteen--two fourteen and the two thousand fourteen--two thousand
25 fifteen school years, the remaining portion of these sixty points shall
26 include, in addition to the requirements of subparagraph three of this
27 paragraph, at least two other sources of evidence from the following
28 options: feedback from teachers, students, and/or families using state-

1 approved instruments; school visits by other trained evaluators; and/or
2 review of school documents, records, and/or state accountability proc-
3 esses. Any such remaining points shall be assigned based on the results
4 of one or more ambitious and measurable goals set collaboratively with
5 principals and their superintendents or district superintendents as
6 follows:

7 (i) at least one goal must address the principal's contribution to
8 improving teacher effectiveness, which shall include one or more of the
9 following: improved retention of high performing teachers, the corre-
10 lation between student growth scores of teachers granted tenure as
11 opposed to those denied tenure; or improvements in the proficiency
12 rating of the principal on specific teacher effectiveness standards in
13 the principal practice rubric.

14 (ii) any other goals shall address quantifiable and verifiable
15 improvements in academic results or the school's learning environmental
16 such as student or teacher attendance.

17 [(6) The] (8) For evaluations of building principals for the two thou-
18 sand fifteen--two thousand sixteen school year and thereafter, the
19 remaining portion of the fifty points shall be based on a broad assess-
20 ment of the principal's leadership and management actions based on the
21 principal practice rubric by the building principal's supervisor, with
22 at least one unannounced visit.

23 (9) For school years prior to the two thousand fifteen--two thousand
24 sixteen school year, the district or board of cooperative educational
25 services shall establish specific minimum and maximum scoring ranges for
26 each performance level within this subcomponent before the start of each
27 school year and shall assign points to a teacher or principal for this
28 subcomponent based on the standards prescribed in the regulations of the

1 commissioner, all in accordance with, and subject to, the requirements
2 of paragraph j of this subdivision. For the two thousand fifteen--six-
3 teen school year and thereafter, the commissioner shall establish in
4 regulations the minimum and maximum scoring ranges for each performance
5 level within this subcomponent.

6 i. For purposes of this section, student growth means the change in
7 student achievement for an individual student between two or more points
8 in time.

9 j. (1) The process by which points are assigned in subcomponents and
10 the scoring ranges for the subcomponents must be transparent and avail-
11 able to those being rated before the beginning of each school year. The
12 process by which points are assigned in the respective subcomponents are
13 to be determined as follows:

14 (i) For the state assessment or other comparable measures subcompo-
15 nent, that process shall be formulated by the commissioner with the
16 approval of the board of regents.

17 (ii) For school years prior to the two thousand fifteen--two thousand
18 sixteen school year, for the locally selected measures of the student
19 achievement subcomponent, that process shall be established locally
20 through negotiations conducted under article fourteen of the civil
21 service law.

22 (iii) For the other measures of teacher and principal effectiveness
23 subcomponent, that process shall be established locally through negoti-
24 ations conducted under article fourteen of the civil services law.

25 (2) Such process must ensure that it is possible for a teacher or
26 principal to obtain each point in the applicable scoring ranges, includ-
27 ing zero, for the state assessment or other comparable measures subcom-
28 ponent, the locally selected measures of student achievement subcompo-

1 nent in school years where applicable, and the overall rating
2 categories. The process must also ensure that it is possible for a
3 teacher or principal to obtain each point in the scoring ranges
4 prescribed by the district or board of cooperative educational services
5 for the other measures of teacher and principal effectiveness subcompo-
6 nent.

7 (3) The superintendent, district superintendent or chancellor and the
8 president of the collective bargaining representative (where one exists)
9 shall certify in its plan that the process will use the narrative
10 descriptions of the standards for the scoring ranges provided in the
11 regulations of the commissioner to effectively differentiate a teacher
12 or principal's performance in each of the subcomponents and in their
13 overall ratings to improve student learning and instruction.

14 (4) [The] For school years prior to the two thousand fifteen--two
15 thousand sixteen school year, scoring ranges for the other measures of
16 teacher and principal effectiveness subcomponent shall be established
17 locally through negotiations conducted under article fourteen of the
18 civil service law. For the two thousand fifteen--two thousand sixteen
19 school year and thereafter, the scoring ranges for the other measures of
20 teacher and principal effectiveness subcomponent shall be established by
21 the commissioner in regulations.

22 § 7. Section 3012-c of the education law is amended by adding a new
23 subdivision 11 to read as follows:

24 11. a. A student may not be instructed for two consecutive school
25 years by two consecutive classroom teachers in the same district, each
26 of whom received a final quality rating of ineffective under an annual
27 professional performance review conducted pursuant to this section in

1 the school year immediately before the school year in which the student
2 is placed in the respective classroom teacher's class.

3 b. If a classroom teacher did not instruct students in the school year
4 immediately before the school year in which the students are placed in
5 the teacher's class, the teacher's rating in the most recent year in
6 which the teacher instructed students, instead of the school year imme-
7 diately before the school year in which students are placed in the
8 classroom teacher's class, shall be used in determining the ratings for
9 purposes of this subdivision.

10 § 8. This act shall take effect immediately.

11 PART C

12 Section 1. Section 34 of chapter 91 of the laws of 2002 amending the
13 education law and other laws relating to the reorganization of the New
14 York city school construction authority, board of education and communi-
15 ty boards, as amended by chapter 345 of the laws of 2009, is amended to
16 read as follows:

17 § 34. This act shall take effect July 1, 2002; provided, that sections
18 one through twenty, twenty-four, and twenty-six through thirty of this
19 act shall expire and be deemed repealed June 30, [2015] 2018; provided,
20 further, that notwithstanding any provision of article 5 of the general
21 construction law, on June 30, [2015] 2018 the provisions of subdivisions
22 3, 5, and 8, paragraph b of subdivision 13, subdivision 14, paragraphs
23 b, d, and e of subdivision 15, and subdivisions 17 and 21 of section
24 2554 of the education law as repealed by section three of this act,
25 subdivision 1 of section 2590-b of the education law as repealed by
26 section six of this act, paragraph (a) of subdivision 2 of section

1 2590-b of the education law as repealed by section seven of this act,
2 section 2590-c of the education law as repealed by section eight of this
3 act, paragraph c of subdivision 2 of section 2590-d of the education law
4 as repealed by section twenty-six of this act, subdivision 1 of section
5 2590-e of the education law as repealed by section twenty-seven of this
6 act, subdivision 28 of section 2590-h of the education law as repealed
7 by section twenty-eight of this act, subdivision 30 of section 2590-h of
8 the education law as repealed by section twenty-nine of this act, subdi-
9 vision 30-a of section 2590-h of the education law as repealed by
10 section thirty of this act shall be revived and be read as such
11 provisions existed in law on the date immediately preceding the effec-
12 tive date of this act; provided, however, that sections seven and eight
13 of this act shall take effect on November 30, 2003; provided further
14 that the amendments to subdivision 25 of section 2554 of the education
15 law made by section two of this act shall be subject to the expiration
16 and reversion of such subdivision pursuant to section 12 of chapter 147
17 of the laws of 2001, as amended, when upon such date the provisions of
18 section four of this act shall take effect.

19 § 2. Subdivision 12 of section 17 of chapter 345 of the laws of 2009
20 amending the education law relating to the New York city board of educa-
21 tion, chancellor, community councils, and community superintendents, is
22 amended to read as follows:

23 12. any provision in sections one, two, three, four, five, six, seven,
24 eight, nine, ten and eleven of this act not otherwise set to expire
25 pursuant to section 34 of chapter 91 of the laws of 2002, as amended, or
26 section 17 of chapter 123 of the laws of 2003, as amended, shall expire
27 and be deemed repealed June 30, [2015] 2018.

28 § 3. This act shall take effect immediately.

1

PART D

2 Section 1. As used in this section, "current year" and "base year"
3 shall have the same meanings as defined in paragraphs a and b, respec-
4 tively, of subdivision 1 of section 3602 of the education law.

5 1. Notwithstanding any provision of law to the contrary, a school
6 district shall not be eligible for an apportionment of general support
7 for public schools for the 2015-16 school year or any school year there-
8 after in excess of the amount apportioned to such school district in the
9 base year, unless the following eligibility criteria and conditions have
10 been met:

11 (a) For all school districts, the director of the budget has notified
12 the commissioner of education in writing that by March 31, 2015 the
13 legislature has enacted a chapter or chapters of law identical to part A
14 and part B of this act as proposed in legislative bill numbers S.2010
15 and A.3010 and submitted in support of the executive budget for the
16 2015-16 state fiscal year; and

17 (b) For all school districts, the school district has submitted
18 documentation that has been approved by the commissioner of education,
19 by September 1 of the current year, demonstrating that it has fully
20 implemented the standards and procedures for conducting annual profes-
21 sional performance reviews of classroom teachers and building principals
22 in accordance with the requirements of section 3012-c of the education
23 law, as amended by part B of this act as proposed in legislative bill
24 numbers S.2010 and A.3010 and submitted in support of the executive
25 budget for the 2015-16 state fiscal year, and the commissioner of
26 education's regulations; and

1 (c) For a school district in a city with a population of one million
2 or more, the director of the budget has notified the commissioner of
3 education in writing that by March 31, 2015 the legislature has enacted
4 a chapter or chapters of law identical to part C of this act as proposed
5 in legislative bill numbers S.2010 and A.3010 and submitted in support
6 of the executive budget for the 2015-16 state fiscal year.

7 2. If any payments of ineligible amounts pursuant to subdivision one
8 of this section were made, the total amount of such payments shall be
9 deducted from future payments to the school district; provided that, if
10 the amount of the deduction is greater than the sum of the amounts
11 available for such deductions in the applicable school year, the remain-
12 der of the deduction shall be withheld from payments scheduled to be
13 made to the school district pursuant to section 3609-a of the education
14 law for the subsequent school year.

15 3. Notwithstanding any provision of law to the contrary, any appor-
16 tionment withheld pursuant to this section shall not have any effect on
17 the base year calculation for use in the subsequent school year.

18 § 2. Subdivision 2 of section 1 of part A of chapter 57 of the laws of
19 2013 relating to school district eligibility for an increase in appor-
20 tionment of school aid and implementation of standards for conducting
21 annual professional performance reviews to determine teacher and princi-
22 pal effectiveness is amended to read as follows:

23 2. Notwithstanding any inconsistent provision of law, no school
24 district shall be eligible for an apportionment of general support for
25 public schools from the funds appropriated for the 2013-14 school year
26 [and thereafter] or the 2014-15 school year in excess of the amount
27 apportioned to such school district in the base year unless such school
28 district has submitted documentation that has been approved by the

1 commissioner of education by September 1 of the current year, demon-
2 strating that it has fully implemented the standards and procedures for
3 conducting annual professional performance reviews of classroom teachers
4 and building principals in accordance with the requirements of section
5 3012-c of the education law and the commissioner of education's regu-
6 lations. Any apportionment withheld pursuant to this section shall not
7 occur prior to April 1 of the current year and shall not have any effect
8 on the base year calculation for use in the subsequent school year.

9 § 3. This act shall take effect immediately.

10 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
11 sion, section or part of this act shall be adjudged by any court of
12 competent jurisdiction to be invalid, such judgment shall not affect,
13 impair, or invalidate the remainder thereof, but shall be confined in
14 its operation to the clause, sentence, paragraph, subdivision, section
15 or part thereof directly involved in the controversy in which such judg-
16 ment shall have been rendered. It is hereby declared to be the intent of
17 the legislature that this act would have been enacted even if such
18 invalid provisions had not been included herein.

19 § 3. This act shall take effect immediately provided, however, that
20 the applicable effective date of Parts A through D of this act shall be
21 as specifically set forth in the last section of such Parts.