

9219--A

2009-2010 Regular Sessions

I N A S S E M B L Y

October 28, 2009

Introduced by M. of A. HOYT, TOWNS, BOYLAND, BENJAMIN, KOLB, CORWIN -- read once and referred to the Committee on Education -- recommitted to the Committee on Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to authorizing boards of cooperative educational services to contract with charter schools, clarifying that five-year charters for charter schools comprise five school years in which instruction is provided to pupils, removing the cap on the total number of charter schools in the state, allowing charter schools to operate at more than one site, authorizing the provision of facilities aid to charter schools and to authorizing charter schools to operate pre-kindergarten programs (Part A); to amend the education law, in relation to mandating an immediate review of mathematics, science and technology regents standards and establishing standards that are globally competitive (Part B); to amend the education law, in relation to the availability of school district and board of cooperative educational services report cards, establishing a more comprehensive school evaluation system for grading public schools within the state and establishing an educational data warehouse (Part C); and to amend the education law, in relation to evaluation of teachers and school district employee disciplinary proceedings (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 relating to the reformation of state educational standards. Each compo-
3 nent is wholly contained within a Part identified as Parts A through D.
4 The effective date for each particular provision contained within such
5 Part is set forth in the last section of such Part. Any provision in any
6 section contained within a Part, including the effective date of the

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section six of this act sets forth the general effective date of this act.

S 2. This act shall be known and may be cited as the "education reform act of 2010".

S 3. Legislative intent. The New York state public education system, from pre-kindergarten through graduation, is in need of systematic reformation. Demanding and rigorous standards and accountability across the spectrum of schools will allow our state to become an educational leader in the twenty-first century and will drastically improve our economy by creating educated citizens more capable of contributing effectively and dynamically to the workforce. Additionally, such reformation will allow New York state to qualify as a serious competitor for the federal government's education stimulus monies, the Race to the Top funds.

At a moment in our state's history where we face the worst budget crisis to date, we should strive to improve, compete, and enhance our economic standing; we need to compete effectively for the Race to the Top Funding and use it to implement the below reforms. Therefore, it is in the public interest to implement changes to the public education system that will enable New York and its citizens to accomplish these goals.

PART A

Section 1. Paragraph h of subdivision 4 of section 1950 of the education law is amended by adding a new subparagraph 8 to read as follows:

(8) TO ENTER INTO CONTRACTS WITH CHARTER SCHOOLS AUTHORIZED BY ARTICLE FIFTY-SIX OF THIS CHAPTER, TO PROVIDE SERVICES AS AUTHORIZED BY THIS SECTION.

S 2. Paragraph (p) of subdivision 2 of section 2851 of the education law, as added by chapter 4 of the laws of 1998, is amended to read as follows:

(p) The term of the proposed charter, which shall not exceed five SCHOOL years IN WHICH INSTRUCTION IS PROVIDED TO PUPILS, PLUS ANY ADDITIONAL PERIOD AUTHORIZED PURSUANT TO PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION TWENTY-EIGHT HUNDRED FIFTY-THREE OF THIS ARTICLE.

S 3. Subdivision 9 of section 2852 of the education law, as amended by section 2 of part D-2 of chapter 57 of the laws of 2007, is amended to read as follows:

9. [The] THERE SHALL BE NO LIMIT ON THE total number of charters issued pursuant to this article [shall not exceed two hundred. One hundred of such charters shall be issued on the recommendation of the charter entity described in paragraph (b) of subdivision three of section twenty-eight hundred fifty-one of this article, and one hundred of such charters shall be issued on the recommendation of the other charter entities set forth in subdivision three of section twenty-eight hundred fifty-one of this article, provided that up to fifty of the additional charters authorized to be issued by the chapter of the laws of two thousand seven which amended this subdivision effective July first, two thousand seven shall be reserved for a city school district of a city having a population of one million or more]. The failure of any body to issue the regulations authorized pursuant to this article shall not [effect] AFFECT the authority of a charter entity to propose a

1 charter to the board of regents or the board of regents' authority to
2 grant such charter. [A conversion of an existing public school to a
3 charter school or the renewal or extension of a charter shall not be
4 counted toward the numerical limits established by this subdivision.]

5 S 4. Paragraph (a) of subdivision 1 of section 2853 of the education
6 law, as added by chapter 4 of the laws of 1998, is amended to read as
7 follows:

8 (a) Upon the approval of a charter by the board of regents, the board
9 of regents shall incorporate the charter school as an education corpo-
10 ration for a term not to exceed five SCHOOL years IN WHICH INSTRUCTION
11 IS PROVIDED TO PUPILS, PLUS THE PERIOD COMMENCING WITH THE EFFECTIVE
12 DATE OF THE CHARTER AND ENDING WITH THE OPENING OF THE SCHOOL FOR
13 INSTRUCTION. Such certificate of incorporation shall not modify or
14 limit any terms of the charter approved by the board of regents. Upon
15 approval of an application to renew a charter, the board of regents
16 shall extend the certificate of incorporation for a term not to exceed
17 five SCHOOL years, PLUS THE PERIOD, IF ANY, COMMENCING WITH THE EFFEC-
18 TIVE DATE OF THE RENEWAL CHARTER AND ENDING WITH THE FIRST DAY OF THE
19 FIRST FULL SCHOOL YEAR IN WHICH INSTRUCTION IS PROVIDED UNDER THE
20 RENEWAL CHARTER. Upon termination or nonrenewal of the charter of a
21 charter school pursuant to section twenty-eight hundred fifty-five of
22 this article, the certificate of incorporation of the charter school
23 shall be revoked by the board of regents pursuant to section two hundred
24 nineteen of this chapter, provided that compliance with the notice and
25 hearing requirements of such section twenty-eight hundred fifty-five of
26 this article shall be deemed to satisfy the notice and hearing require-
27 ments of such section two hundred nineteen. It shall be the duty of the
28 trustees of the charter school to obtain federal tax-exempt status no
29 later than one year following approval of a charter school by the board
30 of regents. For purposes of this article, "certificate of incorporation"
31 shall mean the provisional charter issued by the board of regents to
32 form the charter school as an educational corporation pursuant to
33 sections two hundred sixteen and two hundred seventeen of this chapter.

34 S 5. Paragraph (b-1) of subdivision 1 of section 2853 of the education
35 law, as added by chapter 4 of the laws of 1998, is amended to read as
36 follows:

37 (b-1) An education corporation operating a charter school shall not be
38 authorized to operate more than one school [or] BUT MAY BE AUTHORIZED TO
39 house any grade at more than one site[, provided that:

40 (A) a]. A CHARTER SCHOOL HOUSING ANY GRADE AT MORE THAN ONE SITE SHALL
41 HAVE EACH SUCH ADDITIONAL SITE DEEMED AS A CHARTER ISSUED FOR THE
42 PURPOSES OF SUBDIVISION NINE OF SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO
43 OF THIS ARTICLE. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER,
44 APPROVAL OF REVISIONS TO A CHARTER OR CHARTERS TO AUTHORIZE AN EDUCATION
45 CORPORATION TO HOUSE ANY GRADE OR GRADES AT MORE THAN ONE SITE, INCLUD-
46 ING THE MERGER OR CONSOLIDATION OF EXISTING EDUCATION CORPORATIONS OPER-
47 ATING CHARTER SCHOOLS TO A SINGLE EDUCATION CORPORATION, SHALL BE MADE
48 IN ACCORDANCE WITH PARAGRAPH (A) OF SUBDIVISION SEVEN OF SECTION TWEN-
49 TY-EIGHT HUNDRED FIFTY-TWO OF THIS ARTICLE. UPON SUCH MERGER OR CONSOL-
50 IDATION, THE SURVIVING OR CONSOLIDATED EDUCATION CORPORATION, PLUS ANY
51 SUCH ADDITIONAL SITES, SHALL EACH BE COUNTED AS A CHARTER ISSUED FOR THE
52 PURPOSES OF SUBDIVISION NINE OF SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO
53 OF THIS ARTICLE. IF A CHARTER SCHOOL HAS EMPLOYEES WHO ARE MEMBERS OF A
54 COLLECTIVE BARGAINING ORGANIZATION PURSUANT TO ARTICLE FOURTEEN OF THE
55 CIVIL SERVICE LAW THAT MERGES OR CONSOLIDATES WITH A CHARTER SCHOOL
56 WHOSE EMPLOYEES ARE NOT MEMBERS OF A COLLECTIVE BARGAINING ORGANIZATION,

1 EMPLOYEES OF THE MERGED OR CONSOLIDATED CHARTER SCHOOL SHALL BE MEMBERS
2 OF THE COLLECTIVE BARGAINING ORGANIZATION THAT REPRESENTED LIKE POSI-
3 TIONS, IF ANY, PRIOR TO THE MERGER OR CONSOLIDATION. A charter school
4 may operate in more than one building at a single site; and

5 [(B)] a charter school which provides instruction to its students at
6 different locations for a portion of their school day shall be deemed to
7 be operating at a single site; AND A CHARTER SCHOOL OPERATING AT MORE
8 THAN ONE SITE BUT WHICH HOUSES EACH GRADE AT A SINGLE SITE SHALL BE
9 DEEMED TO BE OPERATING AT A SINGLE SITE.

10 S 6. Paragraph (c) of subdivision 2 of section 2854 of the education
11 law, as added by chapter 4 of the laws of 1998, is amended to read as
12 follows:

13 (c) A charter school shall serve one or more of the grades [one]
14 KINDERGARTEN through twelve, and shall limit admission to pupils within
15 the grade levels served. Nothing herein shall prohibit a charter school
16 from establishing a [kindergarten] PRE-KINDERGARTEN program, PROVIDED
17 HOWEVER, THAT THE STUDENTS ENROLLED IN SUCH PRE-KINDERGARTEN PROGRAM
18 SHALL NOT BE INCLUDED IN THE ENROLLMENT FOR PURPOSES OF PARAGRAPHS (A)
19 AND (B) OF SUBDIVISION ONE OF SECTION TWENTY-EIGHT HUNDRED FIFTY-SIX OF
20 THIS ARTICLE.

21 S 7. Subdivision 1 of section 2856 of the education law is amended by
22 adding a new paragraph (d) to read as follows:

23 (D) CHARTER SCHOOL FACILITIES AID. IN THE TWO THOUSAND TEN--TWO THOU-
24 SAND ELEVEN SCHOOL YEAR AND THEREAFTER, SUBJECT TO AN APPROPRIATION FOR
25 SUCH PURPOSE, THE COMMISSIONER SHALL PAY CHARTER SCHOOLS FACILITIES AID
26 IN ACCORDANCE WITH THIS SUBDIVISION IN AN AMOUNT EQUAL TO THE LESSER OF:

27 (I) THE AGGREGATE TOTAL FOR ALL SCHOOL DISTRICTS WITH RESIDENT STUDENTS
28 ATTENDING THE CHARTER SCHOOL IN THE BASE YEAR OF THE PRODUCT OF FIFTEEN
29 PERCENT, THE CHARTER SCHOOL BASIC TUITION OF THE SCHOOL DISTRICT FOR THE
30 BASE YEAR CALCULATED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION AND
31 THE ENROLLMENT OF CHARTER SCHOOL STUDENTS RESIDING IN THE SCHOOL
32 DISTRICT IN THE BASE YEAR, OR (II) THE ACTUAL COSTS INCURRED BY THE
33 CHARTER SCHOOL IN THE BASE YEAR FOR LEASE PAYMENTS AND/OR DEBT SERVICE
34 FOR CHARTER SCHOOL FACILITIES. SUCH AMOUNT SHALL BE PAID DIRECTLY TO THE
35 CHARTER SCHOOL FOLLOWING SUBMISSION OF A CLAIM, NOT LATER THAN THIRTY
36 DAYS PRIOR TO A SCHEDULED PAYMENT, THAT CONTAINS ALL DATA REQUIRED TO
37 COMPUTE THE AID, INCLUDING THE ACTUAL COSTS INCURRED FOR LEASE PAYMENTS
38 AND/OR DEBT SERVICE IN THE BASE YEAR. PAYMENTS MADE PURSUANT TO THIS
39 PARAGRAPH SHALL BE MADE BY THE COMMISSIONER IN SIX SUBSTANTIALLY EQUAL
40 INSTALLMENTS EACH YEAR BEGINNING ON THE FIRST BUSINESS DAY OF JULY AND
41 EVERY TWO MONTHS THEREAFTER, PROVIDED THAT A VALID, TIMELY CLAIM IS
42 SUBMITTED AND EACH PAYMENT MAY BE ADJUSTED BY THE COMMISSIONER FOR ANY
43 UNDERPAYMENTS OR OVERPAYMENTS. FOR PURPOSES OF THIS PARAGRAPH, "BASE
44 YEAR" AND "CURRENT YEAR" SHALL MEAN BASE YEAR AND CURRENT YEAR AS SUCH
45 TERMS ARE DEFINED IN SUBDIVISION ONE OF SECTION THIRTY-SIX HUNDRED TWO
46 OF THIS CHAPTER.

47 S 8. Subdivision 1 of section 2856 of the education law, as separately
48 amended by chapter 4 of the laws of 1998 and section 12 of part A of
49 chapter 57 of the laws of 2009, is amended to read as follows:

50 1. (A) The enrollment of students attending charter schools shall be
51 included in the enrollment, attendance and, if applicable, count of
52 students with disabilities of the school district in which the pupil
53 resides. The charter school shall report all such data to the school
54 districts of residence in a timely manner. Each school district shall
55 report such enrollment, attendance and count of students with disabili-
56 ties to the department. The school district of residence shall pay

1 directly to the charter school for each student enrolled in the charter
2 school who resides in the school district an amount equal to one hundred
3 percent of the amount calculated pursuant to paragraph f of subdivision
4 one of section thirty six hundred two of this chapter for the school
5 district for the year prior to the base year increased by the percentage
6 change in the state total approved operating expense calculated pursuant
7 to subdivision eleven of section thirty six hundred two of this chapter
8 from two years prior to the base year to the base year; provided, howev-
9 er, that for the two thousand nine--two thousand ten school year, the
10 charter school basic tuition shall be the amount payable by such
11 district as charter school basic tuition for the two thousand eight--two
12 thousand nine school year. The school district shall also pay directly
13 to the charter school any federal or state aid attributable to a student
14 with a disability attending charter school in proportion to the level of
15 services for such student with a disability that the charter school
16 provides directly or indirectly. Notwithstanding anything in this
17 section to the contrary, amounts payable pursuant to this subdivision
18 may be reduced pursuant to an agreement between the school and the char-
19 ter entity set forth in the charter. Payments made pursuant to this
20 subdivision shall be made by the school district in six substantially
21 equal installments each year beginning on the first business day of July
22 and every two months thereafter. Amounts payable under this subdivision
23 shall be determined by the commissioner. Amounts payable to a charter
24 school in its first year of operation shall be based on the projections
25 of initial-year enrollment set forth in the charter. Such projections
26 shall be reconciled with the actual enrollment at the end of the
27 school's first year of operation, and any necessary adjustments shall be
28 made to payments during the school's second year of operation.

29 (B) IN THE TWO THOUSAND TEN--TWO THOUSAND ELEVEN SCHOOL YEAR AND THER-
30 EAFTER, SUBJECT TO AN APPROPRIATION FOR SUCH PURPOSE, THE COMMISSIONER
31 SHALL PAY CHARTER SCHOOLS FACILITIES AID IN ACCORDANCE WITH THIS SUBDI-
32 VISION IN AN AMOUNT EQUAL TO THE LESSER OF: (I) THE AGGREGATE TOTAL FOR
33 ALL SCHOOL DISTRICTS WITH RESIDENT STUDENTS ATTENDING THE CHARTER SCHOOL
34 IN THE BASE YEAR OF THE PRODUCT OF FIFTEEN PERCENT, THE CHARTER SCHOOL
35 BASIC TUITION OF THE SCHOOL DISTRICT FOR THE BASE YEAR CALCULATED PURSU-
36 ANT TO PARAGRAPH (A) OF THIS SUBDIVISION AND THE ENROLLMENT OF CHARTER
37 SCHOOL STUDENTS RESIDING IN THE SCHOOL DISTRICT IN THE BASE YEAR, OR
38 (II) THE ACTUAL COSTS INCURRED BY THE CHARTER SCHOOL IN THE BASE YEAR
39 FOR LEASE PAYMENTS AND/OR DEBT SERVICE FOR CHARTER SCHOOL FACILITIES.
40 SUCH AMOUNT SHALL BE PAID DIRECTLY TO THE CHARTER SCHOOL FOLLOWING
41 SUBMISSION OF A CLAIM, NOT LATER THAN THIRTY DAYS PRIOR TO A SCHEDULED
42 PAYMENT, THAT CONTAINS ALL DATA REQUIRED TO COMPUTE THE AID, INCLUDING
43 THE ACTUAL COSTS INCURRED FOR LEASE PAYMENTS AND/OR DEBT SERVICE IN THE
44 BASE YEAR. PAYMENTS MADE PURSUANT TO THIS PARAGRAPH SHALL BE MADE BY THE
45 COMMISSIONER IN SIX SUBSTANTIALLY EQUAL INSTALLMENTS EACH YEAR BEGINNING
46 ON THE FIRST BUSINESS DAY OF JULY AND EVERY TWO MONTHS THEREAFTER,
47 PROVIDED THAT A VALID, TIMELY CLAIM IS SUBMITTED AND EACH PAYMENT MAY BE
48 ADJUSTED BY THE COMMISSIONER FOR ANY UNDERPAYMENTS OR OVERPAYMENTS. FOR
49 PURPOSES OF THIS PARAGRAPH, "BASE YEAR" AND "CURRENT YEAR" SHALL MEAN
50 BASE YEAR AND CURRENT YEAR AS SUCH TERMS ARE DEFINED IN SUBDIVISION ONE
51 OF SECTION THIRTY-SIX HUNDRED TWO OF THIS CHAPTER.

52 S 9. This act shall take effect July 1, 2010; provided that the amend-
53 ments to subdivision 1 of section 2856 of the education law made by
54 section seven of this act shall be subject to the expiration and rever-
55 sion of such subdivision pursuant to subdivision d of section 27 of

chapter 378 of the laws of 2007, as amended, when upon such date the provisions of section eight of this act shall take effect.

PART B

Section 1. Section 211 of the education law, as added by section 1 of part A of chapter 57 of the laws of 2007, is amended to read as follows:

S 211. Review of regents learning standards. 1. The regents shall periodically review and evaluate the existing regents learning standards to determine if they should be strengthened, modified or combined so as to provide adequate opportunity for students to acquire the skills and knowledge they need to succeed in employment or postsecondary education and to function productively as civic participants upon graduation from high school. Such review and evaluation shall be conducted upon a schedule adopted by the regents, provided that a review and evaluation of the English language arts standards shall be completed as soon as possible, but no later than the end of the two thousand seven--two thousand eight school year AND PROVIDED FURTHER THAT A REVIEW AND EVALUATION OF THE MATHEMATICS, SCIENCE AND TECHNOLOGY STANDARDS SHALL BEGIN NO LATER THAN THE START OF THE TWO THOUSAND TEN--TWO THOUSAND ELEVEN SCHOOL YEAR AND COMPLETED AS SOON AS POSSIBLE, BUT NO LATER THAN THE END OF THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR.

2. In conducting such reviews, the regents shall seek the recommendations of teachers, school administrators, teacher educators and others with educational expertise on improvements to the standards so that they ensure that students are prepared, in appropriate progression, for postsecondary education or employment.

3. IN CONDUCTING REVIEWS AND EVALUATIONS OF THE MATHEMATICS, SCIENCE AND TECHNOLOGY STANDARDS, THE REGENTS SHALL ALSO REVIEW NATIONAL AND INTERNATIONAL STANDARDS FOR MATHEMATICS, SCIENCE AND TECHNOLOGY TO ENSURE THAT REGENTS STANDARDS ARE SUFFICIENTLY STRINGENT TO PROMOTE STUDENT ACHIEVEMENT AND PREPARATION FOR GLOBAL COMPETITIVENESS.

S 2. The commissioner of education, or his or her designee, shall, on or before July 1, 2012, report to the governor and the legislature regarding the results of the board of regents' review of the current standards for mathematics, science and technology standards, together with the department of education's findings, conclusions, recommendations and progress regarding the implementation of internationally bench-marked standards for mathematics, science and technology standards.

S 3. This act shall take effect immediately.

PART C

Section 1. Subdivisions 6 and 7 of section 1608 of the education law, subdivision 6 as amended by section 5 of part A of chapter 436 of the laws of 1997, subdivision 7 as amended by section 4 of part H of chapter 83 of the laws of 2002 and paragraph a of subdivision 7 as amended by chapter 238 of the laws of 2007, are amended to read as follows:

6. Each year, the board of education shall prepare a school district report card, pursuant to regulations of the commissioner, and shall make it publicly available by transmitting it to local newspapers of general circulation, appending it to copies of the proposed budget made publicly available as required by law, making it available for distribution at the annual meeting, AT THE SCHOOL DISTRICT OFFICES, AT ANY PUBLIC LIBRARY OR FREE ASSOCIATION LIBRARY WITHIN THE DISTRICT AND ON THE

1 SCHOOL DISTRICT'S INTERNET WEBSITE, IF ONE EXISTS, and otherwise dissem-
2 inating it as required by the commissioner. Such report card shall
3 include measures of the academic performance of the school district, on
4 a school by school basis, and measures of the fiscal performance of the
5 district, as prescribed by the commissioner. Pursuant to regulations of
6 the commissioner, the report card shall also compare these measures to
7 statewide averages for all public schools, and statewide averages for
8 public schools of comparable wealth and need, developed by the commis-
9 sioner. Such report card shall include, at a minimum, any information on
10 the school district regarding pupil performance and expenditure per
11 pupil required to be included in the annual report by the regents to the
12 governor and the legislature pursuant to section two hundred fifteen-a
13 of this chapter; and any other information required by the commissioner.
14 School districts (i) identified as having fifteen percent or more of
15 their students in special education, or (ii) which have fifty percent or
16 more of their students with disabilities in special education programs
17 or services sixty percent or more of the school day in a general educa-
18 tion building, or (iii) which have eight percent or more of their
19 students with disabilities in special education programs in public or
20 private separate educational settings shall indicate on their school
21 district report card their respective percentages as defined in this
22 subparagraph and subparagraphs (i) and (ii) of this paragraph as
23 compared to the statewide average.

24 7. a. Each year, commencing with the proposed budget for the two thou-
25 sand--two thousand one school year, the trustee or board of trustees
26 shall prepare a property tax report card, pursuant to regulations of the
27 commissioner, and shall make it publicly available by transmitting it to
28 local newspapers of general circulation, appending it to copies of the
29 proposed budget made publicly available as required by law, making it
30 available for distribution at the annual meeting, AT THE SCHOOL DISTRICT
31 OFFICES, AT ANY PUBLIC LIBRARY OR FREE ASSOCIATION LIBRARY WITHIN THE
32 DISTRICT AND ON THE SCHOOL DISTRICT'S INTERNET WEBSITE, IF ONE EXISTS,
33 and otherwise disseminating it as required by the commissioner. Such
34 report card shall include: (i) the amount of total spending and total
35 estimated school tax levy that would result from adoption of the
36 proposed budget and the percentage increase or decrease in total spend-
37 ing and total school tax levy from the school district budget for the
38 preceding school year; and (ii) the projected enrollment growth for the
39 school year for which the budget is prepared, and the percentage change
40 in enrollment from the previous year; and (iii) the percentage increase
41 in the consumer price index, as defined in paragraph c of this subdivi-
42 sion; and (iv) the projected amount of the unappropriated unreserved
43 fund balance that will be retained if the proposed budget is adopted,
44 the projected amount of the reserved fund balance, the projected amount
45 of the appropriated fund balance, the percentage of the proposed budget
46 that the unappropriated unreserved fund balance represents, the actual
47 unappropriated unreserved fund balance retained in the school district
48 budget for the preceding school year, and the percentage of the school
49 district budget for the preceding school year that the actual unappro-
50 priated unreserved fund balance represents.

51 b. A copy of the property tax report card prepared for the annual
52 district meeting shall be submitted to the department in the manner
53 prescribed by the department by the end of the business day next follow-
54 ing approval of the report card by the trustee or board of trustees, but
55 no later than twenty-four days prior to the statewide uniform voting
56 day. The department shall compile such data for all school districts

1 whose budgets are subject to a vote of the qualified voters and shall
2 make such compilation available electronically at least ten days prior
3 to the statewide uniform voting day.

4 c. For purposes of this subdivision, "percentage increase in the
5 consumer price index" shall mean the percentage that represents the
6 product of one hundred and the quotient of: (i) the average of the
7 national consumer price indexes determined by the United States depart-
8 ment of labor for the twelve-month period preceding January first of the
9 current year minus the average of the national consumer price indexes
10 determined by the United States department of labor for the twelve-month
11 period preceding January first of the prior year, divided by (ii) the
12 average of the national consumer price indexes determined by the United
13 States department of labor for the twelve-month period preceding January
14 first of the prior year, with the result expressed as a decimal to two
15 places.

16 S 2. Subdivisions 6 and 7 of section 1716 of the education law, subdi-
17 vision 6 as amended by section 7 of part A of chapter 436 of the laws of
18 1997, subdivision 7 as amended by section 5 of part H of chapter 83 of
19 the laws of 2002 and paragraph a of subdivision 7 as amended by chapter
20 238 of the laws of 2007, are amended to read as follows:

21 6. Each year, the board of education shall prepare a school district
22 report card, pursuant to regulations of the commissioner, and shall make
23 it publicly available by transmitting it to local newspapers of general
24 circulation, appending it to copies of the proposed budget made publicly
25 available as required by law, making it available for distribution at
26 the annual meeting, AT THE SCHOOL DISTRICT OFFICES, AT ANY PUBLIC
27 LIBRARY OR FREE ASSOCIATION LIBRARY WITHIN THE DISTRICT AND ON THE
28 SCHOOL DISTRICT'S INTERNET WEBSITE, IF ONE EXISTS, and otherwise dissem-
29 inating it as required by the commissioner. Such report card shall
30 include measures of the academic performance of the school district, on
31 a school by school basis, and measures of the fiscal performance of the
32 district, as prescribed by the commissioner. Pursuant to regulations of
33 the commissioner, the report card shall also compare these measures to
34 statewide averages for all public schools, and statewide averages for
35 public schools of comparable wealth and need, developed by the commis-
36 sioner. Such report card shall include, at a minimum, any information of
37 the school district regarding pupil performance and expenditure per
38 pupil required to be included in the annual report by the regents to the
39 governor and the legislature pursuant to section two hundred fifteen-a
40 of this chapter; and any other information required by the commissioner.
41 School districts (i) identified as having fifteen percent or more of
42 their students in special education, or (ii) which have fifty percent or
43 more of their students with disabilities in special education programs
44 or services sixty percent or more of the school day in a general educa-
45 tion building, or (iii) which have eight percent or more of their
46 students with disabilities in special education programs in public or
47 private separate educational settings shall indicate on their school
48 district report card their respective percentages as defined in this
49 paragraph and paragraphs (i) and (ii) of this subdivision as compared to
50 the statewide average.

51 7. a. Each year, commencing with the proposed budget for the two thou-
52 sand--two thousand one school year, the board of education shall prepare
53 a property tax report card, pursuant to regulations of the commissioner,
54 and shall make it publicly available by transmitting it to local newspa-
55 pers of general circulation, appending it to copies of the proposed
56 budget made publicly available as required by law, making it available

1 for distribution at the annual meeting, AT THE SCHOOL DISTRICT OFFICES,
2 AT ANY PUBLIC LIBRARY OR FREE ASSOCIATION LIBRARY WITHIN THE DISTRICT
3 AND ON THE SCHOOL DISTRICT'S INTERNET WEBSITE, IF ONE EXISTS, and other-
4 wise disseminating it as required by the commissioner. Such report card
5 shall include: (i) the amount of total spending and total estimated
6 school tax levy that would result from adoption of the proposed budget
7 and the percentage increase or decrease in total spending and total
8 school tax levy from the school district budget for the preceding school
9 year; and (ii) the projected enrollment growth for the school year for
10 which the budget is prepared, and the percentage change in enrollment
11 from the previous year; and (iii) the percentage increase in the consum-
12 er price index, as defined in paragraph c of this subdivision; and (iv)
13 the projected amount of the unappropriated unreserved fund balance that
14 will be retained if the proposed budget is adopted, the projected amount
15 of the reserved fund balance, the projected amount of the appropriated
16 fund balance, the percentage of the proposed budget that the unappropri-
17 ated unreserved fund balance represents, the actual unappropriated unre-
18 served fund balance retained in the school district budget for the
19 preceding school year, and the percentage of the school district budget
20 for the preceding school year that the actual unappropriated unreserved
21 fund balance represents.

22 b. A copy of the property tax report card prepared for the annual
23 district meeting shall be submitted to the department in the manner
24 prescribed by the department by the end of the business day next follow-
25 ing approval of the report card by the board of education, but no later
26 than twenty-four days prior to the statewide uniform voting day. The
27 department shall compile such data for all school districts whose budg-
28 ets are subject to a vote of the qualified voters and shall make such
29 compilation available electronically at least ten days prior to the
30 statewide uniform voting day.

31 c. For purposes of this subdivision, "percentage increase in the
32 consumer price index" shall mean the percentage that represents the
33 product of one hundred and the quotient of: (i) the average of the
34 national consumer price indexes determined by the United States depart-
35 ment of labor for the twelve-month period preceding January first of the
36 current year minus the average of the national consumer price indexes
37 determined by the United States department of labor for the twelve-month
38 period preceding January first of the prior year, divided by (ii) the
39 average of the national consumer price indexes determined by the United
40 States department of labor for the twelve-month period preceding January
41 first of the prior year, with the result expressed as a decimal to two
42 places.

43 S 3. Subdivision 7 of section 2601-a of the education law, as added by
44 chapter 474 of the laws of 1996, is amended and a new subdivision 8 is
45 added to read as follows:

46 7. Each year, the board of education shall prepare a school district
47 report card, pursuant to regulations of the commissioner, and shall make
48 it publicly available by transmitting it to local newspapers of general
49 circulation, appending it to copies of the proposed budget made publicly
50 available as required by law, making it available for distribution at
51 the annual meeting, AT THE SCHOOL DISTRICT OFFICES, AT ANY PUBLIC
52 LIBRARY OR FREE ASSOCIATION LIBRARY WITHIN THE DISTRICT AND ON THE
53 SCHOOL DISTRICT'S INTERNET WEBSITE, IF ONE EXISTS, and otherwise dissem-
54 inating it as required by the commissioner. Such report card shall
55 include measures of the academic performance of the school district, on
56 a school by school basis, and measures of the fiscal performance of the

1 district, as prescribed by the commissioner. Pursuant to regulations of
2 the commissioner, the report card shall also compare these measures to
3 statewide averages for all public schools, and statewide averages for
4 public schools of comparable wealth and need, developed by the commis-
5 sioner. Such report card shall include, at a minimum, any information on
6 the school district regarding pupil performance and expenditure per
7 pupil required to be included in the annual report by the regents to the
8 governor and the legislature pursuant to section two hundred fifteen-a
9 of this chapter; and any other information required by the commissioner.
10 School districts (i) identified as having fifteen percent or more of
11 their students in special education, or (ii) which have fifty percent or
12 more of their students with disabilities in special education programs
13 or services sixty percent or more of the school day in a general educa-
14 tion building, or (iii) which have eight percent or more of their
15 students with disabilities in special education programs in public or
16 private separate educational settings shall indicate on their school
17 district report card their respective percentages as defined in this
18 paragraph and paragraphs (i) and (ii) of this subdivision as compared to
19 the statewide average.

20 8. (A) EACH YEAR, THE BOARD OF EDUCATION SHALL PREPARE A PROPERTY TAX
21 REPORT CARD, PURSUANT TO THE REGULATIONS OF THE COMMISSIONER, AND SHALL
22 MAKE IT PUBLICLY AVAILABLE BY TRANSMITTING IT TO LOCAL NEWSPAPERS OF
23 GENERAL CIRCULATION, APPENDING IT TO COPIES OF THE PROPOSED BUDGET MADE
24 PUBLICLY AVAILABLE AS REQUIRED BY LAW, MAKING IT AVAILABLE FOR DISTRIB-
25 UTION AT THE ANNUAL MEETING, AT THE SCHOOL DISTRICT OFFICES, AT ANY
26 PUBLIC LIBRARY OR FREE ASSOCIATION LIBRARY WITHIN THE DISTRICT, ON THE
27 SCHOOL DISTRICT'S INTERNET WEBSITE, IF ONE EXISTS, AND OTHERWISE DISSEM-
28 INATING IT AS REQUIRED BY THE COMMISSIONER. SUCH REPORT CARD SHALL
29 INCLUDE: (I) THE AMOUNT OF TOTAL SPENDING AND TOTAL ESTIMATED SCHOOL TAX
30 LEVY THAT WOULD RESULT FROM ADOPTION OF THE PROPOSED BUDGET AND THE
31 PERCENTAGE INCREASE OR DECREASE IN TOTAL SPENDING AND TOTAL SCHOOL TAX
32 LEVY FROM THE SCHOOL DISTRICT BUDGET FOR THE PRECEDING SCHOOL YEAR; AND
33 (II) THE PROJECTED ENROLLMENT GROWTH FOR THE SCHOOL YEAR FOR WHICH THE
34 BUDGET IS PREPARED, AND THE PERCENTAGE CHANGED IN ENROLLMENT FROM THE
35 PREVIOUS YEAR; AND (III) THE PERCENTAGE INCREASE IN THE CONSUMER PRICE
36 INDEX, AS DEFINED IN PARAGRAPH (C) OF THIS SUBDIVISION; AND (IV) THE
37 PROJECTED AMOUNT OF THE UNAPPROPRIATED UNRESERVED FUND BALANCE THAT WILL
38 BE RETAINED IF THE PROPOSED BUDGET IS ADOPTED, THE PROJECTED AMOUNT OF
39 THE RESERVED FUND BALANCE, THE PROJECTED AMOUNT OF THE APPROPRIATED FUND
40 BALANCE, THE PERCENTAGE OF THE PROPOSED BUDGET THAT THE UNAPPROPRIATED
41 UNRESERVED FUND BALANCE REPRESENTS, THE ACTUAL UNAPPROPRIATED UNRESERVED
42 FUND BALANCE RETAINED IN THE SCHOOL DISTRICT BUDGET FOR THE PRECEDING
43 SCHOOL YEAR, AND THE PERCENTAGE OF THE SCHOOL DISTRICT BUDGET FOR THE
44 PRECEDING SCHOOL YEAR THAT THE ACTUAL UNAPPROPRIATED UNRESERVED FUND
45 BALANCE REPRESENTS.

46 (B) A COPY OF THE PROPERTY TAX REPORT CARD PREPARED FOR THE ANNUAL
47 DISTRICT MEETING SHALL BE SUBMITTED TO THE DEPARTMENT IN THE MANNER
48 PRESCRIBED BY THE DEPARTMENT BY THE END OF THE BUSINESS DAY NEXT FOLLOW-
49 ING APPROVAL OF THE REPORT CARD BY THE BOARD OF EDUCATION, BUT NO LATER
50 THAN TWENTY-FOUR DAYS PRIOR TO THE STATEWIDE UNIFORM VOTING DAY. THE
51 DEPARTMENT SHALL COMPILE SUCH DATA FOR ALL SCHOOL DISTRICTS WHOSE BUDG-
52 ETS ARE SUBJECT TO A VOTE OF THE QUALIFIED VOTERS AND SHALL MAKE SUCH
53 COMPILATION AVAILABLE ELECTRONICALLY AT LEAST TEN DAYS PRIOR TO THE
54 STATEWIDE UNIFORM VOTING DAY.

55 (C) FOR PURPOSES OF THIS SUBDIVISION, "PERCENTAGE INCREASE IN THE
56 CONSUMER PRICE INDEX" SHALL MEAN THE PERCENTAGE THAT REPRESENTS THE

1 PRODUCT OF ONE HUNDRED AND THE QUOTIENT OF: (I) THE AVERAGE OF THE
2 NATIONAL CONSUMER PRICE INDEXES DETERMINED BY THE UNITED STATES DEPART-
3 MENT OF LABOR FOR THE TWELVE-MONTH PERIOD PRECEDING JANUARY FIRST OF THE
4 CURRENT YEAR MINUS THE AVERAGE OF THE NATIONAL CONSUMER PRICE INDEXES
5 DETERMINED BY THE UNITED STATES DEPARTMENT OF LABOR FOR THE TWELVE-MONTH
6 PERIOD PRECEDING JANUARY FIRST OF THE PRIOR YEAR, DIVIDED BY (II) THE
7 AVERAGE OF THE NATIONAL CONSUMER PRICE INDEXES DETERMINED BY THE UNITED
8 STATES DEPARTMENT OF LABOR FOR THE TWELVE-MONTH PERIOD PRECEDING JANUARY
9 FIRST OF THE PRIOR YEAR, WITH THE RESULT EXPRESSED AS A DECIMAL TO TWO
10 PLACES.

11 S 4. Paragraph kk of subdivision 4 of section 1950 of the education
12 law, as added by section 13 of part A of chapter 436 of the laws of
13 1997, is amended to read as follows:

14 kk. For the nineteen hundred ninety-seven--ninety-eight school year
15 and thereafter, the board of cooperative educational services (BOCES)
16 shall prepare a BOCES report card, pursuant to regulations of the
17 commissioner, and shall make it publicly available by transmitting it to
18 local newspapers of general circulation, appending it to copies of the
19 proposed administrative budget made publicly available as required by
20 law, making it available for distribution at the annual meeting, AT THE
21 BOARD OF COOPERATIVE EDUCATIONAL SERVICES OFFICES, AND ON THE BOARD OF
22 COOPERATIVE EDUCATIONAL SERVICES INTERNET WEBSITE, IF ONE EXISTS, and
23 otherwise disseminating it as required by the commissioner. Such report
24 card shall include measures of the academic performance of the board of
25 cooperative educational services, on a school by school or program by
26 program basis, and measures of the fiscal performance of the supervisory
27 district, as prescribed by the commissioner. Pursuant to regulations of
28 the commissioner, the report card shall also compare these measures to
29 statewide averages for all boards of cooperative educational services.
30 Such report card shall include, at a minimum, any information of the
31 board of cooperative educational services regarding pupil performance
32 and expenditure per pupil required to be included in the annual report
33 by the regents to the governor and the legislature pursuant to section
34 two hundred fifteen-a of this chapter; and any other information
35 required by the commissioner.

36 S 5. Subdivision 39 of section 305 of the education law, as amended by
37 section 3 of part A of chapter 57 of the laws of 2008, is amended and a
38 new subdivision 42 is added to read as follows:

39 39. The commissioner shall develop a school leadership report card and
40 a separate school progress report card to assist boards of education,
41 the state and the public in assessing the performance of school leaders,
42 including superintendents of schools and building principals, and the
43 schools that they lead. The report cards shall include an assessment of
44 the school's progress in achieving standards of excellence. By January
45 first, two thousand nine, the commissioner shall develop such standards
46 of excellence which shall include, but not be limited to, parent
47 involvement, curriculum, teacher quality, and accountability measures as
48 set forth in section two hundred eleven-a of this title. The commission-
49 er shall promulgate regulations requiring the trustees or boards of
50 education of every common, union free, central, central high school and
51 city school district, and the chancellor of a city school district in a
52 city of one million or more inhabitants, to attach copies of such report
53 cards to the statement of estimated expenditures pursuant to section
54 sixteen hundred eight or seventeen hundred sixteen of this chapter,
55 where applicable, and to otherwise make the report cards publicly avail-
56 able in the same manner as a school district report card WITHIN THIRTY

1 DAYS OF THE DATE UPON WHICH THE DEPARTMENT PROVIDES THE REPORT CARD TO
2 THE DISTRICT.

3 42. NO LATER THAN JUNE THIRTIETH, TWO THOUSAND ELEVEN, THE COMMISSION-
4 ER SHALL DEVELOP AND IMPLEMENT LETTER GRADING SYSTEMS WITH VALUES DESIG-
5 NATED IN DESCENDING ORDER FROM A TO F TO TRANSLATE THE CURRENT ACCOUNT-
6 ABILITY MEASURES UNDER STATE AND FEDERAL LAW INTO A MORE TRANSPARENT AND
7 COMPREHENSIVE SYSTEM. SUCH LETTER GRADING SYSTEM SHALL INCORPORATE
8 EXISTING MEASURES OF SCHOOL AND SCHOOL DISTRICT ACCOUNTABILITY WHILE
9 ALSO INCORPORATING STUDENT PERFORMANCE GROWTH.

10 S 6. This act shall take effect July 1, 2010.

11 PART D

12 Section 1. Paragraph a of subdivision 2 of section 3012-b of the
13 education law, as amended by section 1 of part C of chapter 57 of the
14 laws of 2008, is amended to read as follows:

15 a. evaluation of the extent to which the teacher successfully utilized
16 analysis of available student performance data and other relevant infor-
17 mation when providing instruction [but the teacher shall not be granted
18 or denied tenure based on student performance data];

19 S 2. Subdivision 2 of section 3001 of the education law, as amended by
20 chapter 658 of the laws of 2002, is amended to read as follows:

21 2. Not in possession of a teacher's certificate issued under the
22 authority of this chapter or a diploma issued on the completion of a
23 course in state college for teachers or state teachers college of this
24 state; PROVIDED THAT PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO
25 PERSONS WHO ARE RECOMMENDED FOR CERTIFICATION AS A TEACHER OR PRINCIPAL
26 BY AN EDUCATION-ORIENTED ORGANIZATION APPROVED BY THE DEPARTMENT.

27 The provisions of this subdivision shall not prohibit a certified
28 teacher from permitting a practice or cadet teacher enrolled in an
29 approved teacher education program from teaching a class without the
30 presence of the certified teacher in the classroom provided the class-
31 room certified teacher is available at all times and retains supervision
32 of the practice or cadet teacher. The number of certified teachers shall
33 not be diminished by reason of the presence of cadet teachers.

34 S 3. Subdivision 2 of section 3001 of the education law, as amended by
35 chapter 538 of the laws of 1973, is amended to read as follows:

36 2. Not in possession of a teacher's certificate issued under the
37 authority of this chapter or a diploma issued on the completion of a
38 course in state college for teachers or state teachers college of this
39 state; PROVIDED THAT PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO
40 PERSONS WHO ARE RECOMMENDED FOR CERTIFICATION AS A TEACHER OR PRINCIPAL
41 BY AN EDUCATION-ORIENTED ORGANIZATION APPROVED BY THE DEPARTMENT.

42 The provisions of this subdivision shall not prohibit a certified
43 teacher from permitting a practice or cadet teacher enrolled in an
44 approved teacher education program from teaching a class without the
45 presence of the certified teacher in the classroom provided the class-
46 room certified teacher is available at all times and retains supervision
47 of the practice or cadet teacher. The number of certified teachers shall
48 not be diminished by reason of the presence of cadet teachers.

49 S 4. Subdivision 6 of section 3004 of the education law, as added by
50 section 5 of part A of chapter 57 of the laws of 2007, is amended to
51 read as follows:

52 6. The regents and the commissioner shall review the alternative
53 teacher preparation programs available to candidates for teaching
54 certificates under the regulations of the commissioner in the two thou-

1 sand seven--two thousand eight school year and shall [consider means of
2 expanding] EXPAND the availability of such preparation [in the future]
3 NO LATER THAN THE END OF THE TWO THOUSAND TEN--TWO THOUSAND ELEVEN
4 SCHOOL YEAR, while maintaining teacher quality. The regents and the
5 commissioner shall develop programs to assist in the expansion of alter-
6 native teacher preparation programs, INCLUDING AUTHORIZING EDUCATION-OR-
7 IENTED ORGANIZATIONS OTHER THAN SCHOOLS OF EDUCATION TO RECOMMEND TEACH-
8 ERS AND PRINCIPALS FOR CERTIFICATION.

9 S 5. Paragraph (b) of subdivision 2 of section 3020-a of the education
10 law, as separately amended by chapters 296 and 325 of the laws of 2008,
11 is amended to read as follows:

12 (b) The employee may be suspended pending a hearing on the charges and
13 the final determination thereof. The suspension shall be with pay FOR A
14 PERIOD OF ONE HUNDRED TWENTY DAYS, except the employee may be suspended
15 without pay IMMEDIATELY if the employee has entered a guilty plea to or
16 has been convicted of a felony crime concerning the criminal sale or
17 possession of a controlled substance, a precursor of a controlled
18 substance, or drug paraphernalia as defined in article two hundred twen-
19 ty or two hundred twenty-one of the penal law; or a felony crime involv-
20 ing the physical abuse of a minor or student. The employee shall be
21 terminated without a hearing, as provided for in this section, upon
22 conviction of a sex offense, as defined in subparagraph two of paragraph
23 b of subdivision seven-a of section three hundred five of this chapter.
24 To the extent this section applies to an employee acting as a school
25 administrator or supervisor, as defined in subparagraph three of para-
26 graph b of subdivision seven-b of section three hundred five of this
27 chapter, such employee shall be terminated without a hearing, as
28 provided for in this section, upon conviction of a felony offense
29 defined in subparagraph two of paragraph b of subdivision seven-b of
30 section three hundred five of this chapter.

31 S 6. Subdivisions 3, 4 and 5 of section 3020-a of the education law,
32 as amended by chapter 691 of the laws of 1994, are amended and a new
33 subdivision 6 is added to read as follows:

34 3. Hearings. a. Notice of hearing. Upon receipt of a request for a
35 hearing in accordance with subdivision two of this section, the commis-
36 sioner [of education] shall forthwith notify the American Arbitration
37 Association (hereinafter "association") of the need for a hearing and
38 shall request the association to provide to the commissioner forthwith a
39 list of names of persons [chosen by the association] from the associ-
40 ation's panel of labor arbitrators to potentially serve as hearing offi-
41 cers together with relevant biographical information on each arbitrator.
42 Upon receipt of said list and biographical information, the commissioner
43 [of education] shall [forthwith send a copy of both simultaneously]
44 WITHIN TEN BUSINESS DAYS APPOINT A HEARING OFFICER FROM SAID LIST OF
45 NAMES PROVIDED BY THE ASSOCIATION. UPON APPOINTMENT, THE COMMISSIONER
46 SHALL IMMEDIATELY SEND NOTIFICATION OF THE HEARING OFFICER APPOINTED to
47 the employing board and the employee.

48 b. [(i)] APPOINTMENT. APPOINTMENT FROM SUCH LIST SHALL BE MADE ON A
49 SEQUENTIAL BASIS BEGINNING WITH THE FIRST NAME APPEARING ON SUCH LIST.
50 SHOULD THAT HEARING OFFICER DECLINE APPOINTMENT, OR IF, WITHIN
51 FORTY-EIGHT HOURS, THE HEARING OFFICER FAILS TO RESPOND OR IS UNREACHA-
52 BLE AFTER REASONABLE EFFORTS BY THE COMMISSIONER, EACH SUCCESSIVE HEAR-
53 ING OFFICER WHOSE NAME NEXT APPEARS ON THE LIST SHALL BE OFFERED AN
54 APPOINTMENT, UNTIL SUCH APPOINTMENT IS ACCEPTED. ARBITRATORS MAY NOT
55 ACCEPT AN APPOINTMENT UNLESS THEY ARE AVAILABLE TO COMMENCE AND COMPLETE
56 THE HEARING WITHIN THE TIME FRAMES SPECIFIED IN THIS SECTION. AN

1 ARBITRATOR'S UNEXCUSED FAILURE TO COMPLY WITH THE TIME FRAMES SPECIFIED
2 IN THIS SECTION SHALL BE DEEMED GOOD AND SUFFICIENT GROUNDS FOR DISQUAL-
3 IFYING HIM OR HER FROM CONSIDERATION FOR APPOINTMENT FROM SUCH LIST
4 SPECIFIED IN PARAGRAPH A OF THIS SUBDIVISION. IF, AFTER COMMENCEMENT OF
5 A HEARING AND BY MUTUAL AGREEMENT OF THE PARTIES, THE HEARING OFFICER IS
6 DEEMED INCAPACITATED OR OTHERWISE UNAVAILABLE OR UNWILLING TO CONTINUE
7 THE HEARING OR ISSUE THE DECISION, THE COMMISSIONER SHALL RESCIND THE
8 APPOINTMENT OF THE HEARING OFFICER AND APPOINT A NEW HEARING OFFICER IN
9 ACCORDANCE WITH THE PROCEDURES AS SET FORTH IN THIS SUBDIVISION, AND THE
10 NEW HEARING OFFICER SHALL RESUME AND CONTINUE THE HEARING AT THE POINT
11 AT WHICH IT WAS INTERRUPTED.

12 C. TRAINING PROGRAM. (I) THE COMMISSIONER SHALL ESTABLISH A TRAINING
13 PROGRAM WHICH SHALL BE COMPLETED TO THE SATISFACTION OF THE COMMISSIONER
14 AS A CONDITION FOR ELIGIBILITY FOR INCLUSION ON THE LIST OF NAMES OF
15 PERSONS FROM THE ASSOCIATION'S PANEL OF LABOR ARBITRATORS TO POTENTIALLY
16 SERVE AS HEARING OFFICERS UNDER THIS SECTION.

17 (II) EFFECTIVE SIX MONTHS FROM THE EFFECTIVE DATE OF THIS SUBPARA-
18 GRAPH, AS A CONDITION FOR ELIGIBILITY FOR INCLUSION ON THE LIST OF NAMES
19 OF PERSONS CHOSEN BY THE ASSOCIATION FROM THE ASSOCIATION'S PANEL OF
20 LABOR ARBITRATORS TO POTENTIALLY SERVE AS A HEARING OFFICER, AN ARBITRA-
21 TOR SHALL:

22 (A) HAVE SUCCESSFULLY COMPLETED A TRAINING PROGRAM PURSUANT TO SUBPAR-
23 AGRAPH (I) OF THIS PARAGRAPH;

24 (B) ATTEND SUCH PERIODIC UPDATE PROGRAMS AS MAY BE SCHEDULED BY THE
25 COMMISSIONER;

26 (C) POSSESS KNOWLEDGE OF, AND THE ABILITY TO UNDERSTAND, THE
27 PROVISIONS OF APPLICABLE LAW AND REGULATIONS PERTAINING TO THE DISCI-
28 PLINE OF TENURED EMPLOYEES UNDER THIS SECTION AND ADMINISTRATIVE AND
29 JUDICIAL INTERPRETATIONS OF SUCH LAW AND REGULATIONS;

30 (D) POSSESS KNOWLEDGE OF THE PROCEDURES INVOLVED IN CONDUCTING A HEAR-
31 ING, AND IN REACHING AND WRITING A DECISION AND THE ABILITY TO CONDUCT
32 HEARINGS IN ACCORDANCE WITH APPROPRIATE, STANDARD LEGAL PRACTICE; AND

33 (E) ANNUALLY SUBMIT, IN A FORMAT AND BY A DATE PRESCRIBED BY THE
34 COMMISSIONER, A CERTIFICATION THAT THE HEARING OFFICER MEETS THE
35 REQUIREMENTS OF THIS SUBDIVISION.

36 (III) THE COMMISSIONER SHALL ESTABLISH STANDARDS ALLOWING ARBITRATORS
37 TO DOCUMENT THEIR QUALIFICATION TO BE IMMEDIATELY ELIGIBLE FOR APPOINT-
38 MENT FROM SUCH LIST SPECIFIED IN PARAGRAPH A OF THIS SUBDIVISION.

39 D. Hearing officers. All hearings pursuant to this section shall be
40 conducted before and by a single hearing officer selected as provided
41 for in this section. A hearing officer shall not be eligible to serve
42 as such if he or she is a resident of the school district, other than
43 the city of New York, under the jurisdiction of the employing board, an
44 employee, agent or representative of the employing board or of any labor
45 organization representing employees of such employing board, has served
46 as such agent or representative within two years of the date of the
47 scheduled hearing, or if he or she is then serving as a mediator or fact
48 finder in the same school district. Notwithstanding any other provision
49 of law, the hearing officer shall be compensated by the department with
50 the customary fee paid for service as an arbitrator under the auspices
51 of the association for each day of actual service plus necessary travel
52 and other reasonable expenses incurred in the performance of his or her
53 duties. All other expenses of the disciplinary proceedings shall be paid
54 in accordance with rules promulgated by the commissioner [of education].

55 [(ii) Not later than ten days after the date the commissioner mails to
56 the employing board and the employee the list of potential hearing offi-

cers and biographies provided to the commissioner by the association, the employing board and the employee, individually or through their agents or representatives, shall by mutual agreement select a hearing officer from said list to conduct the hearing and shall notify the commissioner of their selection.

(iii) If the employing board and the employee fail to agree on an arbitrator to serve as a hearing officer from said list and so notify the commissioner within ten days after receiving the list from the commissioner, the commissioner shall request the association to appoint a hearing officer from said list.

(iv) In those cases in which the employee elects to have the charges heard by a hearing panel, the hearing panel shall consist of the hearing officer, selected in accordance with this subdivision, and two additional persons, one selected by the employee and one selected by the employing board, from a list maintained for such purpose by the commissioner of education. The list shall be composed of professional personnel with administrative or supervisory responsibility, professional personnel without administrative or supervisory responsibility, chief school administrators, members of employing boards and others selected from lists of nominees submitted to the commissioner by statewide organizations representing teachers, school administrators and supervisors and the employing boards. Hearing panel members other than the hearing officer shall be compensated by the department of education at the rate of one hundred dollars for each day of actual service plus necessary travel and subsistence expenses. The hearing officer shall be compensated as set forth in this subdivision. The hearing officer shall be the chairman of the hearing panel.

c.] E. Hearing procedures. (i) The commissioner [of education] shall have the power to establish necessary rules and procedures for the conduct of hearings under this section. Such rules shall not require compliance with technical rules of evidence. Hearings shall be conducted by the hearing officer [selected] APPOINTED pursuant to [paragraph] PARAGRAPHS A AND b of this subdivision with full and fair disclosure of [the nature of the case and evidence against the employee] ALL MATERIAL RELEVANT TO THE PROSECUTION OR DEFENSE OF THIS ACTION by the [employing board] PARTIES TEN BUSINESS DAYS PRIOR TO THE FIRST HEARING DATE and shall be public or private at the discretion of the employee. The employee shall have a reasonable opportunity to defend himself or herself and an opportunity to testify in his or her own behalf. The employee shall not be required to testify, HOWEVER, THIS RIGHT SHALL NOT BE CONSTRUED TO MEAN THAT THE EMPLOYEE MAY REFUSE TO COOPERATE IN THE EMPLOYING SCHOOL DISTRICT'S INVESTIGATION OF ALLEGATIONS OF MISCONDUCT OR INCOMPETENCE RAISED AGAINST HIM OR HER. Each party shall have the right to be represented by counsel, to subpoena witnesses, and to cross-examine witnesses. All testimony taken shall be under oath which the hearing officer is hereby authorized to administer. A competent stenographer, designated by the commissioner [of education] and compensated by the [state education] department, shall keep and transcribe a record of the proceedings at each such hearing. A copy of the transcript of the hearings shall, upon request, be furnished without charge to the employee and the board of education involved.

(ii) The hearing officer [selected] APPOINTED to conduct a hearing under this section shall, within [ten to fifteen] THIRTY days of agreeing to serve as such, hold a pre-hearing conference which shall be held in the school district or county seat of the county, or any county, wherein the employing school board is located. The pre-hearing confer-

1 ence shall be limited in length to one day except that the hearing offi-
2 cer, in his or her discretion, may allow one additional day for good
3 cause shown.

4 (iii) At the pre-hearing conference the hearing officer shall have the
5 power to:

6 (A) issue subpoenas;

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

9 (C) hear and decide all applications for bills of particular or
10 requests for production of materials or information, including, but not
11 limited to, any witness statement (or statements), investigatory state-
12 ment (or statements) or note (notes), exculpatory evidence or any other
13 evidence, including district or student records, relevant and material
14 to the employee's defense.

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

22 (v) [In the event that at the pre-hearing conference the employing
23 board presents evidence that the professional license of the employee
24 has been revoked and all judicial and administrative remedies have been
25 exhausted or foreclosed, the hearing officer shall schedule the date,
26 time and place for an expedited hearing, which hearing shall commence
27 not more than seven days after the pre-hearing conference and which
28 shall be limited to one day. The expedited hearing shall be held in the
29 local school district or county seat of the county or any county, where-
30 in the said employing board is located. The expedited hearing shall not
31 be postponed except upon the request of a party and then only for good
32 cause as determined by the hearing officer. At such hearing, each party
33 shall have equal time in which to present its case] ALL RULINGS ON
34 SUBSTANTIVE MOTIONS SHALL BE PLACED ON THE RECORD WITH A FULL EXPLANA-
35 TION OF THE HEARING OFFICER'S REASONING.

36 (vi) During the pre-hearing conference, the hearing officer shall
37 determine the reasonable amount of time necessary for a final hearing on
38 the charge or charges and shall schedule the location, time(s) and
39 date(s) for the final hearing. The final hearing shall be held in the
40 local school district or county seat of the county, or any county, wher-
41 ein the said employing school board is located. In the event that the
42 hearing officer determines that the nature of the case requires the
43 final hearing to last more than one day, the days that are scheduled for
44 the final hearing shall be consecutive. The day or days scheduled for
45 the final hearing shall not be postponed except upon the request of a
46 party and then only for good cause shown as determined by the hearing
47 officer. In all cases, the final hearing shall be completed no later
48 than [sixty] ONE HUNDRED TWENTY days after the pre-hearing conference
49 unless the hearing officer determines that extraordinary circumstances
50 warrant a limited extension.

51 4. Post hearing procedures. (a) The hearing officer shall render a
52 written decision within thirty days of the last day of the final hear-
53 ing, [or in the case of an expedited hearing within ten days of such
54 expedited hearing,] and shall forthwith forward a copy thereof to the
55 commissioner [of education] who shall immediately forward copies of the
56 decision to the employee and to the clerk or secretary of the employing

1 board. The written decision shall include the hearing officer's findings
2 of fact on each charge, his or her conclusions with regard to each
3 charge based on said findings and shall state what penalty or other
4 action, if any, shall be taken by the employing board. At the request of
5 the employee, in determining what, if any, penalty or other action shall
6 be imposed, the hearing officer shall consider the extent to which the
7 employing board made efforts towards correcting the behavior of the
8 employee which resulted in charges being brought under this section
9 through means including but not limited to: remediation, peer inter-
10 vention or an employee assistance plan. In those cases where a penalty
11 is imposed, such penalty may be a written reprimand, a fine, suspension
12 for a fixed time without pay, or dismissal. In addition to or in lieu of
13 the aforementioned penalties, the hearing officer, where he or she deems
14 appropriate, may impose upon the employee remedial action including but
15 not limited to leaves of absence with or without pay, continuing educa-
16 tion and/or study, a requirement that the employee seek counseling or
17 medical treatment or that the employee engage in any other remedial or
18 combination of remedial actions.

19 (b) Within fifteen days of receipt of the hearing officer's decision
20 the employing board shall implement the decision. If the employee is
21 acquitted he or she shall be restored to his or her position with full
22 pay for any period of suspension without pay and the charges expunged
23 from the employment record. If an employee who was convicted of a felony
24 crime specified in paragraph (b) of subdivision two of this section, has
25 said conviction reversed, the employee, upon application, shall be enti-
26 tled to have his OR HER pay and other emoluments restored, for the peri-
27 od from the date of his OR HER suspension to the date of the decision.

28 (c) The hearing officer shall indicate in the decision whether any of
29 the charges brought by the employing board were frivolous as defined in
30 section eight thousand three hundred three-a of the civil practice law
31 and rules. If the hearing [officers] OFFICER finds that all of the
32 charges brought against the employee were frivolous, the hearing officer
33 shall order the employing board to reimburse the [state education]
34 department the reasonable costs [said] THE department incurred as a
35 result of the proceeding and to reimburse the employee the reasonable
36 costs, including but not limited to reasonable attorneys' fees, the
37 employee incurred in defending the charges. If the hearing officer finds
38 that some but not all of the charges brought against the employee were
39 frivolous, the hearing officer shall order the employing board to reim-
40 burse the [state education] department a portion, in the discretion of
41 the hearing officer, of the reasonable costs said department incurred as
42 a result of the proceeding and to reimburse the employee a portion, in
43 the discretion of the hearing officer, of the reasonable costs, includ-
44 ing but not limited to reasonable attorneys' fees, the employee incurred
45 in defending the charges.

46 5. Appeal. A. Not later than ten days after receipt of the hearing
47 officer's decision, THE EMPLOYEE OR THE EMPLOYING BOARD MAY MAKE AN
48 APPLICATION FOR REVIEW OF THE HEARING OFFICER'S DECISION TO THE STATE
49 TENURED TEACHERS AND ADMINISTRATORS DISCIPLINARY REVIEW PANEL, (HEREAFT-
50 ER REFERRED TO IN THIS SUBDIVISION AS "THE REVIEW PANEL"), ESTABLISHED
51 FOR THAT PURPOSE WITHIN THE DEPARTMENT IN ACCORDANCE WITH SUBDIVISION
52 FORTY-THREE OF SECTION THREE HUNDRED FIVE OF THIS CHAPTER, AND THE RULES
53 AND REGULATIONS PROMULGATED BY THE COMMISSIONER. THE REVIEW PANEL MAY
54 MODIFY OR REVERSE THE DECISION OF A HEARING OFFICER AS APPROPRIATE TO
55 PROPERLY EFFECTUATE THE PURPOSES OF THIS SECTION. THE DECISIONS OF THE
56 REVIEW PANEL SHALL CONSTITUTE BINDING DECISIONAL LAW UNTIL MODIFIED OR

1 REVERSED ON APPEAL BY EITHER PARTY BY A STATE SUPREME COURT OR BY AN
2 APPELLATE COURT ON FURTHER APPEAL. REVIEW PANEL DECISIONS SHALL BE
3 PUBLISHED PURSUANT TO RULES AND REGULATIONS PROMULGATED BY THE COMMIS-
4 SIONER AND IN THE SAME MANNER AS ADMINISTRATIVE DECISIONS FROM OTHER
5 STATE AGENCIES.

6 B. NOT LATER THAN TEN DAYS AFTER RECEIPT OF THE DECISION OF THE REVIEW
7 PANEL, the employee or the employing board may make an application to
8 the New York state supreme court to vacate or modify the decision of the
9 [hearing officer] REVIEW PANEL pursuant to section seven thousand five
10 hundred eleven of the civil practice law and rules. [The court's review
11 shall be limited to the grounds set forth in such section.] The [hear-
12 ing] REVIEW panel's determination shall be deemed to be final for the
13 purpose of such proceeding.

14 C. In no case shall the filing or the pendency of an [appeal] APPLICA-
15 TION FOR REVIEW BY THE STATE REVIEW PANEL OR AN APPEAL TO THE COURTS
16 delay the implementation of the decision of the hearing officer.

17 6. IMMEDIATE REMOVAL. A. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A
18 PERSON ENJOYING THE BENEFITS OF TENURE AS PROVIDED IN SUBDIVISION THREE
19 OF SECTION ELEVEN HUNDRED TWO, OR SECTION TWENTY-FIVE HUNDRED NINE,
20 TWENTY-FIVE HUNDRED SEVENTY-THREE, TWENTY-FIVE HUNDRED NINETY-J, THREE
21 THOUSAND TWELVE OR THREE THOUSAND FOURTEEN OF THIS CHAPTER SHALL LOSE
22 SUCH BENEFITS AND SHALL BE IMMEDIATELY REMOVED FROM EMPLOYMENT BY THE
23 EMPLOYING BOARD OF EDUCATION UPON CONVICTION OF ANY OFFENSE RELATED TO
24 CHILD ABUSE; CHILD ABUSE IN AN EDUCATIONAL SETTING AS DEFINED IN SECTION
25 ELEVEN HUNDRED TWENTY-FIVE OF THIS CHAPTER; OR ANY OTHER FELONY OFFENSE
26 THAT AFFECTS THE OPERATION OF A SCHOOL DISTRICT; OR, UPON REVOCATION OF
27 A PROFESSIONAL CERTIFICATE PURSUANT TO SUBDIVISION SEVEN OF SECTION
28 THREE HUNDRED FIVE OF THIS CHAPTER.

29 B. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO PERSON ENJOYING THE
30 BENEFITS OF TENURE AS PROVIDED IN SUBDIVISION THREE OF SECTION ELEVEN
31 HUNDRED TWO, OR SECTION TWENTY-FIVE HUNDRED NINE, TWENTY-FIVE HUNDRED
32 SEVENTY-THREE, TWENTY-FIVE HUNDRED NINETY-J, THREE THOUSAND TWELVE OR
33 THREE THOUSAND FOURTEEN OF THIS CHAPTER WHO FAILS TO RECEIVE A PROFES-
34 SIONAL CERTIFICATE WITHIN THE STATUTORY TIMEFRAME AS REQUIRED BY SECTION
35 THREE THOUSAND FOUR OF THIS ARTICLE SHALL RETAIN SUCH BENEFITS AND MAY
36 BE IMMEDIATELY REMOVED FROM EMPLOYMENT BY A BOARD OF EDUCATION.

37 C. ANY EMPLOYEE OF A SCHOOL DISTRICT SUBJECT TO IMMEDIATE TERMINATION
38 UNDER THE PROVISIONS OF THIS SECTION SHALL HAVE FIVE BUSINESS DAYS FROM
39 THE NOTICE OF TERMINATION IN WHICH TO PROVIDE DOCUMENTARY EVIDENCE
40 ESTABLISHING TO THE SATISFACTION OF THE EMPLOYING BOARD THAT HE OR SHE
41 IS NOT THE SAME INDIVIDUAL REFERENCED IN THE ACTION TRIGGERING HIS OR
42 HER REMOVAL.

43 S 7. Section 305 of the education law is amended by adding a new
44 subdivision 43 to read as follows:

45 43. A. THE COMMISSIONER SHALL ESTABLISH THE STATE TENURED TEACHERS AND
46 ADMINISTRATORS DISCIPLINARY REVIEW PANEL, (HEREAFTER REFERRED TO IN THIS
47 SUBDIVISION AS THE "PANEL"). THE PANEL SHALL CONSIST OF NO LESS THAN
48 THREE MEMBERS APPOINTED BY THE COMMISSIONER. PANEL MEMBERS SHALL BE
49 EMPLOYED BY THE DEPARTMENT AND THEIR SALARY SHALL BE DETERMINED AND PAID
50 BY THE DEPARTMENT.

51 B. PANEL MEMBERS SHALL:

52 (1) SUCCESSFULLY COMPLETE A TRAINING PROGRAM ESTABLISHED BY THE
53 COMMISSIONER AND ATTEND SUCH ADDITIONAL TRAINING PROGRAMS AS MAY BE
54 REQUIRED BY THE COMMISSIONER;

55 (2) POSSESS KNOWLEDGE OF AND THE ABILITY TO UNDERSTAND THE PROVISIONS
56 OF APPLICABLE LAW AND REGULATIONS PERTAINING TO THE DISCIPLINE OF

1 TENURED EMPLOYEES UNDER THIS SECTION, AND ADMINISTRATIVE AND JUDICIAL
2 INTERPRETATIONS OF SUCH LAWS AND REGULATIONS;

3 (3) POSSESS KNOWLEDGE OF THE PROCEDURES INVOLVED IN CONDUCTING A HEAR-
4 ING UNDER THIS SECTION; AND

5 (4) POSSESS THE ABILITY TO RENDER AND WRITE DECISIONS IN ACCORDANCE
6 WITH APPROPRIATE STANDARD LEGAL PRACTICE.

7 S 8. This act shall take effect immediately and shall apply to disci-
8 plinary proceedings commenced on or after such effective date; provided
9 that the amendments to section 3012-b of the education law, made by
10 section one of this act shall not affect the repeal of such section and
11 shall be deemed repealed therewith; provided, further, that the amend-
12 ments to subdivision 2 of section 3001 of the education law made by
13 section two of this act shall be subject to the expiration and reversion
14 of such section pursuant to section 2 of chapter 658 of the laws of
15 2002, as amended, when upon such date the provisions of section three of
16 this act shall take effect.

17 S 4. The commissioner of education and the board of regents are
18 authorized and directed to take all actions necessary to implement the
19 provisions of parts A and C of this act on or before the effective dates
20 of such parts. The commissioner of education is authorized and directed
21 to promulgate rules and regulations necessary to implement the
22 provisions of parts A and C of this act on or before the effective dates
23 of such parts.

24 S 5. Severability clause. If any clause, sentence, paragraph, subdivi-
25 sion, section or part of this act shall be adjudged by any court of
26 competent jurisdiction to be invalid, such judgment shall not affect,
27 impair, or invalidate the remainder thereof, but shall be confined in
28 its operation to the clause, sentence, paragraph, subdivision, section
29 or part thereof directly involved in the controversy in which such judg-
30 ment shall have been rendered. It is hereby declared to be the intent of
31 the legislature that this act would have been enacted even if such
32 invalid provisions had not been included herein.

33 S 6. This act shall take effect immediately provided, however, that
34 the applicable effective date of Parts A through D of this act shall be
35 as specifically set forth in the last section of such Parts.