

9411

I N A S S E M B L Y

March 2, 2016

Introduced by M. of A. NOLAN -- read once and referred to the Committee
on Education

AN ACT to amend the education law, in relation to the takeover and
restructuring of struggling schools

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY,
DO ENACT AS FOLLOWS:

1 Section 1. Section 211-f of the education law, as added by section 1
2 of subpart H of part EE of chapter 56 of the laws of 2015, is amended to
3 read as follows:

4 S 211-f. Takeover and restructuring [failing] OF STRUGGLING schools.
5 1. Eligibility for appointment of an external receiver. (a) [Failing]
6 STRUGGLING schools. The commissioner shall designate as [failing] STRUG-
7 GLING each of the schools that has been identified under the state's
8 accountability system to be among the lowest achieving five percent of
9 public schools in the state (priority schools) for at least three
10 consecutive school years, or identified as a "priority school" in each
11 applicable year of such period except one school year in which the
12 school was not identified because of an approved closure plan that was
13 not implemented, based upon measures of student achievement and outcomes
14 and a methodology prescribed in the regulations of the commissioner,
15 provided that this list shall not include schools within a special act
16 school district as defined in subdivision eight of section four thousand
17 one of this chapter or schools chartered pursuant to article fifty-six
18 of this chapter. Except as otherwise provided in paragraph (c) of this
19 subdivision, and pursuant to regulations promulgated by the commissioner,
20 a school designated as [failing] STRUGGLING under this paragraph
21 shall be eligible for receivership under this section upon a determination
22 by the commissioner.

23 (b) Persistently [failing] STRUGGLING schools. Based upon measures of
24 student achievement and outcomes and a methodology prescribed in the
25 regulations of the commissioner, the commissioner shall designate as
26 persistently [failing] STRUGGLING each of the schools that have been
27 identified under the state's accountability system to be among the
28 lowest achieving public schools in the state for ten consecutive school

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

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1 years, based upon identification of the school by the commissioner as: a
2 "priority school" for each applicable year from the two thousand twelve-
3 -two thousand thirteen school year to the current school year, or iden-
4 tified as a "priority school" in each applicable year of such period
5 except one year in which the school was not identified because of an
6 approved closure plan that was not implemented; and as a "School Requir-
7 ing Academic Progress Year 5", "School Requiring Academic Progress Year
8 6", "School Requiring Academic Progress Year 7" and/or a "School in
9 Restructuring," for each applicable year from the two thousand six--two
10 thousand seven school year to the two thousand eleven--two thousand
11 twelve school year. This designation shall not include schools within a
12 special act school district as defined in subdivision eight of section
13 four thousand one of this chapter or schools chartered pursuant to arti-
14 cle fifty-six of this chapter.

15 (c) Specific provisions. (i) For schools designated as persistently
16 [failing] STRUGGLING pursuant to paragraph (b) of this subdivision, the
17 local district shall continue to operate the school for an additional
18 school year provided that there is a department-approved intervention
19 model or comprehensive education plan in place that includes rigorous
20 performance metrics and goals, including but not limited to measures of
21 student academic achievement and outcomes including those set forth in
22 subdivision six of this section. Notwithstanding any other provision of
23 law, rule or regulation to the contrary, the superintendent shall be
24 vested with all powers granted to a receiver appointed pursuant to this
25 section for such time period; provided, however that such superintendent
26 shall not be allowed to override any decision of the board of education
27 with respect to his or her employment status. At the end of such year,
28 the department shall conduct a performance review in consultation and
29 cooperation with the district and school staff to determine, based on
30 the performance metrics in the school's model or plan, whether (1) the
31 designation of persistently [failing] STRUGGLING should be removed; (2)
32 the school should remain under continued school district operation with
33 the superintendent vested with the powers of a receiver; or (3) the
34 school should be placed into receivership; provided, however, that a
35 school that makes demonstrable improvement based on the performance
36 metrics and goals herein shall remain under district operation for an
37 additional school year and if such school remains under district opera-
38 tion, it shall continue to be subject to annual review by the depart-
39 ment, in consultation and cooperation with the district, under the same
40 terms and conditions.

41 (ii) For schools designated as [failing] STRUGGLING, but not persis-
42 tently [failing] STRUGGLING, the local district shall continue to oper-
43 ate the school for two additional school years provided that there is a
44 department-approved intervention model or comprehensive education plan
45 in place that includes rigorous performance metrics and goals, including
46 but not limited to measures of student academic achievement and outcomes
47 including those set forth in subdivision six of this section. Notwith-
48 standing any other provision of law, rule or regulation to the contrary,
49 the superintendent shall be vested with all powers granted to a receiver
50 appointed pursuant to this section; provided, however that such super-
51 intendent shall not be allowed to override any decision of the board of
52 education with respect to his or her employment status. At the end of
53 such two years, the department shall conduct a school performance review
54 in consultation and cooperation with the district and school staff to
55 determine, based on the performance metrics in the school's model or
56 plan, whether (1) the designation of [failing] STRUGGLING should be

1 removed; (2) the school should remain under continued school district
2 operation with the superintendent vested with the powers of a receiver;
3 or (3) the school should be placed into receivership; provided, however,
4 that a school that makes demonstrable improvement based on the perform-
5 ance metrics and goals herein shall remain under district operation for
6 an additional school year and if such school remains under district
7 operation, it shall continue to be subject to such annual review by the
8 department under the same terms and conditions. For schools newly
9 designated as [failing] STRUGGLING after the two thousand sixteen--two
10 thousand seventeen school year, the school shall be immediately eligible
11 for receivership upon such designation.

12 (iii) Nothing in this paragraph shall be construed to limit (1) a
13 school district's ability to modify, subject to approval by the depart-
14 ment, such department approved intervention model or comprehensive
15 education plan, or (2) the commissioner's ability to require a school
16 district to modify such department approved intervention model or
17 comprehensive education plan and require his or her approval of such
18 modifications.

19 (iv) The district shall provide notice to parents and guardians of the
20 students of the school which may be placed into receivership pursuant to
21 this subdivision and provided further that the district or the commis-
22 sioner shall hold a public meeting or hearing for purposes of discussing
23 the performance of the school and the construct of receivership.

24 1-a. Community engagement team. Upon designation as [failing] STRUGGL-
25 ING or persistently [failing] STRUGGLING pursuant to subdivision one of
26 this section, the district shall establish a community engagement team
27 which shall include community stakeholders, including but not limited to
28 the school principal, parents and guardians, teachers and other school
29 staff and students. Membership of such team may be modified at any time.
30 Such team shall develop recommendations for improvement of the school
31 and shall solicit input through public engagement. The team shall pres-
32 ent its recommendations periodically to the school leadership and, as
33 applicable, the receiver.

34 2. Appointment of a receiver. (a) Upon a determination by the commis-
35 sioner that a school shall be placed into receivership, the applicable
36 school district shall appoint an independent receiver, subject to the
37 approval of the commissioner, to manage and operate all aspects of the
38 school and to develop and implement a school intervention plan for the
39 school that shall consider the recommendations developed by the communi-
40 ty engagement team when creating such plan. The independent receiver may
41 be a non-profit entity, another school district, or an individual. If
42 the school district fails to appoint an independent receiver that meets
43 with the commissioner's approval within sixty days of such determi-
44 nation, the commissioner shall appoint the receiver.

45 (b) The receiver shall be authorized to manage and operate the [fail-
46 ing] STRUGGLING or persistently [failing] STRUGGLING school and shall
47 have the power to supersede any decision, policy or regulation of the
48 superintendent of schools or chief school officer, or of the board of
49 education or another school officer or the building principal that in
50 the sole judgment of the receiver conflicts with the school intervention
51 plan; provided however that the receiver may not supersede decisions
52 that are not directly linked to the school intervention plan, including
53 but not limited to building usage plans, co-location decisions and
54 transportation of students. The receiver shall have authority to review
55 proposed school district budgets prior to presentation to the district
56 voters, or in the case of a city school district in a city having a

1 population of one hundred twenty-five thousand or more, of the adoption
2 of a contingency budget, prior to approval by the board of education,
3 and to modify the proposed budget to conform to the school intervention
4 plan provided that such modifications shall be limited in scope and
5 effect to the [failing] STRUGGLING or persistently [failing] STRUGGLING
6 school and may not unduly impact other schools in the district. A school
7 under receivership shall operate in accordance with laws regulating
8 other public schools, except as such provisions may conflict with this
9 section.

10 (c) The commissioner shall contract with the receiver, and the compen-
11 sation and other costs of the receiver appointed by the commissioner
12 shall be paid from a state appropriation for such purpose, or by the
13 school district, as determined by the commissioner, provided that costs
14 shall be paid by the school district only if there is an open adminis-
15 trative staffing line available for the receiver, and the receiver will
16 be taking on the responsibilities of such open line. Notwithstanding any
17 other provision of law to the contrary, the receiver and any of its
18 employees providing services in the receivership shall be entitled to
19 defense and indemnification by the school district to the same extent as
20 a school district employee. The receiver's contract may be terminated by
21 the commissioner for a violation of law or the commissioner's regu-
22 lations or for neglect of duty. A receiver appointed to operate a
23 district under this section shall have full managerial and operational
24 control over such school; provided, however, that the board of education
25 shall remain the employer of record, and provided further that any
26 employment decisions of the board of education may be superseded by the
27 receiver. It shall be the duty of the board of education and the super-
28 intendent of schools to fully cooperate with the receiver and willful
29 failure to cooperate or interference with the functions of the receiver
30 shall constitute willful neglect of duty for purposes of section three
31 hundred six of this title. The receiver or the receiver's designee shall
32 be an ex officio non-voting member of the board of education entitled to
33 attend all meetings of the board of education.

34 3. Before developing the school intervention plan, the receiver shall
35 consult with local stakeholders such as: (a) the board of education; (b)
36 the superintendent of schools; (c) the building principal; (d) teachers
37 assigned to the school and their collective bargaining representative;
38 (e) school administrators assigned to the school and their collective
39 bargaining representative; (f) parents and guardians of students attend-
40 ing the school or their representatives; (g) representatives of applica-
41 ble state and local social service, health and mental health agencies;
42 (h) as appropriate, representatives of local career education providers,
43 state and local workforce development agencies and the local business
44 community; (i) for elementary schools, representatives of local [prekin-
45 dergarten] PRE-KINDERGARTEN programs; (j) students attending the school
46 as appropriate; (k) as needed for middle schools, junior high schools,
47 central schools or high schools, representatives of local higher educa-
48 tion institutions; and (l) the school stakeholder team set forth in
49 subdivision one-a of this section.

50 4. In creating the school intervention plan, the receiver shall (i)
51 consider the recommendations developed by the community engagement team
52 set forth in subdivision one-a of this section; (ii) include provisions
53 intended to maximize the rapid academic achievement of students at the
54 school; and (iii) ensure that the plan addresses school leadership and
55 capacity, school leader practices and decisions, curriculum development
56 and support, teacher practices and decisions, student social and

1 emotional developmental health, and family and community engagement. The
2 receiver shall, to the extent practicable, base the plan on the findings
3 of any recent diagnostic review or assessment of the school that has
4 been conducted and, as applied to the school, student outcome data
5 including, but not limited to: (a) student achievement growth data based
6 on state measures; (b) other measures of student achievement; (c)
7 student promotion and graduation rates; (d) achievement and growth data
8 for the subgroups of students used in the state's accountability system;
9 (e) student attendance; and (f) long-term and short-term suspension
10 rates.

11 5. (a) The receiver shall include the following in the school inter-
12 vention plan: (i) measures to address social service, health and mental
13 health needs of students in the school and their families in order to
14 help students arrive and remain at school ready to learn; provided that
15 this may include mental health and substance abuse screening; (ii) meas-
16 ures to improve or expand access to child welfare services and, as
17 appropriate, services in the school community to promote a safe and
18 secure learning environment; (iii) as applicable, measures to provide
19 greater access to career and technical education and workforce develop-
20 ment services provided to students in the school and their families in
21 order to provide students and families with meaningful employment skills
22 and opportunities; (iv) measures to address achievement gaps for English
23 language learners, students with disabilities and economically disadvan-
24 taged students, as applicable; (v) measures to address school climate
25 and positive behavior support, including mentoring and other youth
26 development programs; and (vi) a budget for the school intervention
27 plan.

28 (b) As necessary, the commissioner and the commissioners of the
29 department of health, the office of children and family services, the
30 department of labor and other applicable state and local social service,
31 health, mental health and child welfare officials shall coordinate
32 regarding the implementation of the measures described in subparagraphs
33 (i) through (iii) of paragraph (a) of this subdivision that are included
34 in the school intervention plan and shall, subject to appropriation,
35 reasonably support such implementation consistent with the requirements
36 of state and federal law applicable to the relevant programs that each
37 such official is responsible for administering, and grant [failing]
38 STRUGGLING schools priority in competitive grants, as allowable before
39 and during the period of receivership.

40 6. In order to assess the school across multiple measures of school
41 performance and student success, the school intervention plan shall
42 include measurable annual goals including, but not limited to, the
43 following: (a) student attendance; (b) student discipline including but
44 not limited to short-term and long-term suspension rates; (c) student
45 safety; (d) student promotion and graduation and drop-out rates; (e)
46 student achievement and growth on state measures; (f) progress in areas
47 of academic underperformance; (g) progress among the subgroups of
48 students used in the state's accountability system; (h) reduction of
49 achievement gaps among specific groups of students; (i) development of
50 college and career readiness, including at the elementary and middle
51 school levels; (j) parent and family engagement; (k) building a culture
52 of academic success among students; (l) building a culture of student
53 support and success among faculty and staff; (m) using developmentally
54 appropriate child assessments from pre-kindergarten through third grade,
55 if applicable, that are tailored to the needs of the school; and (n)
56 measures of student learning.

1 7. (a) Notwithstanding any general or special law to the contrary, in
2 creating and implementing the school intervention plan, the receiver
3 shall, after consulting with stakeholders and the community engagement
4 team, convert schools to community schools to provide expanded health,
5 mental health and other services to the students and their families.
6 In addition, the receiver may: (i) review and if necessary expand, alter
7 or replace the curriculum and program offerings of the school, including
8 the implementation of research-based early literacy programs, early
9 interventions for struggling readers and the teaching of advanced place-
10 ment courses or other rigorous nationally or internationally recognized
11 courses, if the school does not already have such programs or courses;
12 (ii) replace teachers and administrators, including school leadership
13 who are not appropriately certified or licensed; (iii) increase salaries
14 of current or prospective teachers and administrators to attract and
15 retain high-performing teachers and administrators; (iv) establish steps
16 to improve hiring, induction, teacher evaluation, professional develop-
17 ment, teacher advancement, school culture and organizational structure;
18 (v) reallocate the uses of the existing budget of the school; (vi)
19 expand the school day or school year or both of the school; (vii) for a
20 school that offers the first grade, add pre-kindergarten and full-day
21 kindergarten classes, if the school does not already have such classes;
22 (viii) in accordance with paragraphs (b) and (c) of this subdivision, to
23 abolish the positions of all members of the teaching and administrative
24 and supervisory staff assigned to the [failing] STRUGGLING or persis-
25 tently [failing] STRUGGLING school and terminate the employment of any
26 building principal assigned to such a school, and require such staff
27 members to reapply for their positions in the school if they so choose;
28 (ix) include a provision of a job-embedded professional development for
29 teachers at the school, with an emphasis on strategies that involve
30 teacher input and feedback; (x) establish a plan for professional devel-
31 opment for administrators at the school, with an emphasis on strategies
32 that develop leadership skills and use the principles of distributive
33 leadership; and/or (xi) order the conversion of a school in receivership
34 that has been designated as [failing] STRUGGLING or persistently [fail-
35 ing] STRUGGLING pursuant to this section into a charter school, provided
36 that such conversion shall be subject to article fifty-six of this chap-
37 ter and provided further that such charter conversion school shall oper-
38 ate pursuant to such article and provided further that such charter
39 conversion school shall operate consistent with a community schools
40 model and provided further that such conversion charter school shall be
41 subject to the provisions in subdivisions three, four, five, six, nine,
42 ten, eleven, twelve and thirteen of this section.

43 (b) Notwithstanding any other provision of law, rule or regulation to
44 the contrary, upon designation of any school of the school district as a
45 [failing] STRUGGLING or persistently [failing] STRUGGLING school pursu-
46 ant to this section, the abolition of positions of members of the teach-
47 ing and administrative and supervisory staff of the school shall there-
48 after be governed by the applicable provisions of section twenty-five
49 hundred ten, twenty-five hundred eighty-five, twenty-five hundred eight-
50 y-eight or three thousand thirteen of this chapter as modified by this
51 paragraph. A classroom teacher or building principal who has received
52 two or more composite ratings of ineffective on an annual professional
53 performance review shall be deemed not to have rendered faithful and
54 competent service within the meaning of section twenty-five hundred ten,
55 twenty-five hundred eighty-five, twenty-five hundred eighty-eight or
56 three thousand thirteen of this chapter. When a position of a classroom

1 teacher or building principal is abolished, the services of the teacher
2 or administrator or supervisor within the tenure area of the position
3 with the lowest rating on the most recent annual professional perform-
4 ance review shall be discontinued, provided that seniority within the
5 tenure area of the position shall be used solely to determine which
6 position should be discontinued in the event of a tie.

7 (c) The receiver may abolish the positions of all teachers and peda-
8 gogical support staff, administrators and pupil personnel service
9 providers assigned to a school designated as [failing] STRUGGLING or
10 persistently [failing] STRUGGLING pursuant to this section and require
11 such staff members to reapply for new positions if they so choose. The
12 receiver shall define new positions for the school aligned with the
13 school intervention plan, including selection criteria and expected
14 duties and responsibilities for each position. For administrators and
15 pupil personnel service providers, the receiver shall have full
16 discretion over all such rehiring decisions. For teachers and pedagog-
17 ical support staff, the receiver shall convene a staffing committee
18 including the receiver, two appointees of the receiver and two appoint-
19 ees selected by the school staff or their collective bargaining unit.
20 The staffing committee will determine whether former school staff reap-
21 plying for positions are qualified for the new positions. The receiver
22 shall have full discretion regarding hiring decisions but must fill at
23 least fifty percent of the newly defined positions with the most senior
24 former school staff who are determined by the staffing committee to be
25 qualified. Any remaining vacancies shall be filled by the receiver in
26 consultation with the staffing committee. Notwithstanding any other
27 provision of law to the contrary, a member of the teaching and pedagog-
28 ical support, administrative, or pupil personnel service staff who is
29 not rehired pursuant to this paragraph shall not have any right to bump
30 or displace any other person employed by the district, but shall be
31 placed on a preferred eligibility list in accordance with the applicable
32 provisions of section twenty-five hundred ten, twenty-five hundred
33 eighty-five, twenty-five hundred eighty-eight or three thousand thirteen
34 of this chapter. Teachers rehired pursuant to this paragraph shall main-
35 tain their prior status as tenured or probationary, and a probationary
36 teacher's probation period shall not be changed.

37 (d) For a school with English language learners, the professional
38 development and planning time for teachers and administrators identified
39 in clauses (vi) and (vii) of the closing paragraph of paragraph (a) of
40 this subdivision, shall include specific strategies and content designed
41 to maximize the rapid academic achievement of the English language lear-
42 ners.

43 8. (a) In order to maximize the rapid achievement of students at the
44 applicable school, the receiver may request that the collective bargain-
45 ing unit or units representing teachers and administrators and the
46 receiver, on behalf of the board of education, negotiate a receivership
47 agreement that modifies the applicable collective bargaining agreement
48 or agreements with respect to any [failing] STRUGGLING schools in
49 receivership applicable during the period of receivership. The receiv-
50 ership agreement may address the following subjects: the length of the
51 school day; the length of the school year; professional development for
52 teachers and administrators; class size; and changes to the programs,
53 assignments, and teaching conditions in the school in receivership. The
54 receivership agreement shall not provide for any reduction in compen-
55 sation unless there shall also be a proportionate reduction in hours and
56 shall provide for a proportionate increase in compensation where the

length of the school day or school year is extended. The receivership agreement shall not alter the remaining terms of the existing/underlying collective bargaining agreement which shall remain in effect.

(b) The bargaining shall be conducted between the receiver and the collective bargaining unit in good faith and completed not later than thirty days from the point at which the receiver requested that the bargaining commence. The agreement shall be subject to ratification within ten business days by the bargaining unit members in the school. If the parties are unable to reach an agreement within thirty days or if the agreement is not ratified within ten business days by the bargaining unit members of the school, the parties shall submit any remaining unresolved issues to the commissioner who shall resolve any unresolved issues within five days, in accordance with standard collective bargaining principles.

(c) For purposes only for schools designated as [failing] STRUGGLING pursuant to subparagraph (ii) of paragraph (c) of subdivision one of this section, bargaining shall be conducted between the receiver and the collective bargaining unit in good faith and completed not later than thirty days from the point at which the receiver requested that the bargaining commence. The agreement shall be subject to ratification within ten business days by the bargaining unit members of the school. If the parties are unable to reach an agreement within thirty days or if the agreement is not ratified within ten business days by the bargaining unit members of the school, a conciliator shall be selected through the American Arbitration Association, who shall forthwith forward to the parties a list of three conciliators, each of whom shall have professional experience in elementary and secondary education, from which the parties may agree upon a single conciliator provided, however, that if the parties cannot select a conciliator from among the three within three business days, the American Arbitration Association shall select a conciliator from the list of names within one business day, and the conciliator shall resolve all outstanding issues within five days. After such five days, if any unresolved issues remain, the parties shall submit such issues to the commissioner who shall resolve such issues within five days, in accordance with standard collective bargaining principles.

9. A final school intervention plan shall be submitted to the commissioner for approval and, upon approval, shall be issued by the receiver within six months of the receiver's appointment. A copy of such plan shall be provided to the board of education, the superintendent of schools and the collective bargaining representatives of teachers and administrators of the school district. The plan shall be publicly available and shall be posted on the department's website and the school district's website, and the school district shall provide notice to parents of such school intervention plan and its availability.

10. Each school intervention plan shall be authorized for a period of not more than three years. The receiver may develop additional components of the plan and shall develop annual goals for each component of the plan in a manner consistent with this section, all of which must be approved by the commissioner. The receiver shall be responsible for meeting the goals of the school intervention plan.

11. The receiver shall provide a written report to the board of education, the commissioner, and the board of regents on a quarterly basis to provide specific information about the progress being made on the implementation of the school intervention plan. One of the quarterly reports

shall be the annual evaluation of the intervention plan under subdivision twelve of this section.

12. (a) The commissioner shall, in consultation and cooperation with the district and the school staff, evaluate each school with an appointed receiver at least annually. The purpose of the evaluation shall be to determine whether the school has met the annual goals in its school intervention plan and to assess the implementation of the plan at the school. The evaluation shall be in writing and shall be submitted to the superintendent and the board of education not later than September first for the preceding school year. The evaluation shall be submitted in a format determined by the commissioner.

(b) If the commissioner determines that the school has met the annual performance goals stated in the school intervention plan, the evaluation shall be considered sufficient and the implementation of the school intervention plan shall continue. If the commissioner determines that the school has not met one or more goals in the plan, the commissioner may require modification of the plan.

13. Upon the expiration of a school intervention plan for a school with an appointed receiver, the commissioner, in consultation and cooperation with the district, shall conduct an evaluation of the school to determine whether the school has improved sufficiently, requires further improvement or has failed to improve. On the basis of such review, the commissioner, in consultation and cooperation with the district, may:

(a) renew the plan with the receiver for an additional period of not more than three years; (b) if the [failing] STRUGGLING or persistently [failing] STRUGGLING school remains [failing] STRUGGLING and the terms of the plan have not been substantially met, terminate the contract with the receiver and appoint a new receiver; or (c) determine that the school has improved sufficiently for the designation of [failing] STRUGGLING or persistently [failing] STRUGGLING to be removed.

14. Nothing in this section shall prohibit the commissioner or a local district from closing a school pursuant to the regulations of the commissioner.

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

16. The commissioner shall report annually to the governor and the legislature on the implementation and fiscal impact of this section. The report shall include, but not be limited to, a list of all schools currently designated as [failing] STRUGGLING or persistently [failing] STRUGGLING and the strategies used in each of the schools to maximize the rapid academic achievement of students.

17. The commissioner shall provide any relevant data that is needed to implement and comply with the requirements of the chapter of the laws of two thousand fifteen which added this section to any school district that has a school or schools designated as [failing] STRUGGLING or persistently [failing] STRUGGLING pursuant to this section by August fifteenth of each year, to the fullest extent practicable. Provided that the commissioner shall provide guidance to districts and may establish a model intervention plan. And provided further, that the commissioner shall make available to the public any school intervention plan, or other department-approved intervention model or comprehensive education plan of a school or district provided that such measures are consistent with all federal and state privacy laws.

S 2. a. Whenever the term "persistently failing" or "persistently failing school" appears in any provision of law, regulation, contract or document and when such term relates to or refers to section 211-f of the

1 education law, such term shall be deemed to mean "persistently struggl-
2 ing" or "persistently struggling school".

3 b. Whenever the term "failing" or "failing school" appears in any
4 provision of law, regulation, contract or document and when such term
5 relates to or refers to section 211-f of the education law, such term
6 shall be deemed to mean "struggling" or "struggling school".

7 S 3. This act shall take effect immediately.