

STATE OF NEW YORK

1719

2017-2018 Regular Sessions

IN ASSEMBLY

January 12, 2017

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

AN ACT to amend the education law, in relation to the commission on teacher evaluations and temporary provisions for the implementation of common core learning standards; to repeal certain provisions of chapter 56 of the laws of 2015 amending the education law relating to annual performance reviews of classroom teachers and building principals relating thereto; and to repeal certain provisions of the education law relating to annual teacher and principal evaluations

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

1 Section 1. Section 1 of subpart E of part EE of chapter 56 of the laws
2 of 2015, amending the education law relating to annual performance
3 reviews of classroom teachers and building principals, is REPEALED.

4 § 2. Section 3012-d of the education law is REPEALED and a new section
5 3012-d is added to read as follows:

6 § 3012-d. Teacher evaluation. 1. Definition. "Commission" shall mean
7 the commission on teacher evaluations established pursuant to this
8 section.

9 2. Commission on teacher evaluations. a. There is hereby created the
10 commission on teacher evaluations, which shall consist of the following
11 twenty-four members who shall be appointed no less than thirty days
12 after the effective date of this section:

13 (i) Two members shall be appointed by the governor, one of whom shall
14 be the commissioner;

15 (ii) Two members shall be appointed by the temporary president of the
16 senate;

17 (iii) Two members shall be appointed by the speaker of the assembly;

18 (iv) Two members shall be appointed by the minority leader of the
19 senate;

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

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1 (v) Two members shall be appointed by the minority leader of the
2 assembly;

3 (vi) Two members shall be appointed by the president of New York state
4 united teachers, one of whom must have completed their special education
5 certification and one of whom must provide instruction to English as a
6 second language students;

7 (vii) Two members shall be appointed by the executive director of the
8 school administrators association of New York state;

9 (viii) Two members shall be appointed by the president of the New York
10 state parent teacher association, one of whom must be a parent of a
11 student with a current individual education plan;

12 (ix) Two members shall be appointed by the executive director of the
13 New York state council of school superintendents;

14 (x) Two members shall be appointed by the president of the New York
15 state school boards association;

16 (xi) Two members shall be appointed by the board of regents;

17 (xii) Two members shall be appointed by the president of the New York
18 state association of school psychologists. Such members shall have expe-
19 rience in a clinical setting.

20 b. No member of the commission shall be disqualified from holding any
21 public office or employment, nor shall he or she forfeit any such office
22 or employment by virtue of his or her appointment pursuant to this
23 section. Members of the commission shall receive no compensation for
24 their services, but shall be allowed their actual and necessary expenses
25 incurred in the performance of their functions pursuant to this section.
26 A member of the commission may be removed by the appointing authority
27 only for good cause, after notice and opportunity to be heard. Vacancies
28 shall be filled in the same manner as original appointments.

29 c. Powers and duties of the commission. (i) The commission shall hold
30 at least one public hearing in each of the following regions:

31 (1) Long Island;

32 (2) New York city;

33 (3) Hudson Valley;

34 (4) Capital district;

35 (5) North Country;

36 (6) Central New York;

37 (7) Finger Lakes;

38 (8) Western New York;

39 (9) Southern Tier.

40 (ii) During the public hearings, the commission shall hear the testi-
41 mony of voluntary witnesses, may compel the testimony of witnesses and
42 may require the production of any documents the commission deems reason-
43 ably necessary to carry out its responsibilities.

44 (iii) After review, study, and receipt of public comment, the commis-
45 sion shall issue a report and promulgate recommendations governing the
46 implementation of a new teacher evaluation system.

47 (iv) The commission shall have the power to:

48 (1) appoint a chairperson by a majority vote;

49 (2) call upon any agency, department, office, division or public
50 authority, or school district of this state to supply it with such
51 information and assistance as the commission deems necessary to
52 discharge its responsibilities. Each agency, department, office, divi-
53 sion or school district of this state shall cooperate with the commis-
54 sion and furnish such information and assistance as it requests to
55 accomplish its purposes;

1 (3) appoint a counsel and such other staff as the commission deems
2 reasonably necessary to carry out its responsibilities;

3 (4) contract with any state or private entity for the provision of
4 such services as the commission determines to be reasonably necessary;
5 and

6 (5) take other actions not inconsistent with the purposes of this
7 section as shall enable the commission to carry out its functions.

8 (v) Recommendations issued by the commission shall be decided by a
9 majority vote. Recommendations issued by the commission shall be
10 contained in a report to the governor and legislature. The report shall
11 be issued no later than December first, two thousand eighteen and shall
12 be reviewed and considered by the executive in submission of the two
13 thousand nineteen--twenty executive budget.

14 (vi) Meetings of the commission shall be subject to the open meetings
15 law established by article seven of the public officers law.

16 3. Temporary provisions relating to the implementation of common core
17 learning standards in relation to teacher evaluation. a. Notwithstanding
18 any other provision of law, rule or regulation to the contrary, in the
19 case of any classroom teacher or building principal who received an
20 overall composite rating of ineffective or developing in an annual
21 professional performance review calculated pursuant to section three
22 thousand twelve-c of this article for the two thousand seventeen--eigh-
23 teen and/or two thousand eighteen--nineteen school years, if the state
24 assessments and other comparable measures subcomponent score and/or the
25 locally selected measures of student achievement subcomponent of such
26 rating was based on a state assessment aligned with the common core, the
27 calculation pursuant to subdivision two of this section shall be used
28 for the purposes of subdivision three of this section. For purposes of
29 this section, a state assessment aligned with the common core shall mean
30 a state administered standardized English language arts and/or math
31 assessment in grades three through eight that is aligned to the common
32 core learning standards adopted by the board of regents. Provided,
33 however, that nothing contained in this section shall impair or abridge
34 any rights and privileges of any party pursuant to section three thou-
35 sand twelve-c of this article, except as specifically provided herein.

36 b. Calculations. (i) The calculation pursuant to this subdivision
37 shall be based upon the classroom teacher's or building principal's
38 scores on the applicable approved or determined annual professional
39 performance review plan for the school district or board of cooperative
40 educational services.

41 (ii) Except as provided in subparagraphs (iii) and (iv) of this para-
42 graph, the calculation shall consist of:

43 (1) scaling up the numerator and the denominator of the locally
44 selected measures of student achievement subcomponent such that the
45 denominator is equal to forty points; and

46 (2) adding the result to the classroom teacher's or building princi-
47 pal's score on the other measures of teacher or principal effectiveness
48 subcomponent to generate an overall composite calculation out of one
49 hundred points.

50 (iii) If the locally selected measures of student achievement subcom-
51 ponent relies in whole or in part on a state assessment aligned with the
52 common core, the following provisions shall apply:

53 (1) If the state assessment aligned with the common core is used in
54 such subcomponent among multiple measures including measures other than
55 state assessments aligned with the common core, the calculation shall
56 consist of:

1 (A) excluding the portion of such subcomponent score that relies on
2 state assessments aligned with the common core from both the numerator
3 and denominator of the ratio of the teacher's or principal's score on
4 the locally selected measures of student achievement subcomponent;

5 (B) scaling up the resulting ratio such that the denominator is equal
6 to forty points; and

7 (C) adding the result to the classroom teacher's or building princi-
8 pal's score on the other measures of teacher or principal effectiveness
9 subcomponent to generate an overall composite calculation out of one
10 hundred points.

11 (2) If state assessments aligned with the common core constitute the
12 sole measure of the locally selected measures of student achievement
13 subcomponent, the calculation shall consist of scaling up the numerator
14 and denominator of the ratio of the teacher's or principal's score on
15 the other measures of teacher or principal effectiveness subcomponent
16 out of sixty points such that the denominator is equal to one hundred
17 points and an overall composite calculation is generated.

18 (iv) Notwithstanding the foregoing, in the case of a classroom teacher
19 or building principal (A) whose locally selected measures of student
20 achievement subcomponent is based in whole or in part on a state assess-
21 ment aligned with the common core, and (B) whose state assessments and
22 other comparable measures subcomponent is not based, in any part, on a
23 state assessment aligned with the common core, the calculation shall
24 consist of:

25 (1) If the state assessment aligned with the common core is used in
26 the locally selected measures of student achievement subcomponent among
27 multiple measures including measures other than state assessments
28 aligned with the common core, the calculation shall consist of:

29 (i) Excluding the portion of such subcomponent score that relies on
30 state assessments aligned with the common core from both the numerator
31 and denominator of the ratio of the teacher's or principal's score on
32 the locally selected measures of student achievement subcomponent;

33 (ii) Scaling up the resulting ratio such that the denominator is equal
34 to twenty points, or fifteen points if a value-added model is in effect;
35 and

36 (iii) Adding the result to the classroom teacher's or building princi-
37 pal's score on the state assessments and other comparable measures
38 subcomponent and the other measures of teacher or principal effective-
39 ness subcomponent to generate an overall composite calculation out of
40 one hundred points.

41 (2) If state assessments aligned with the common core constitute the
42 sole measure of the locally selected measures of student achievement
43 subcomponent, the calculation shall consist of:

44 (i) Scaling up the numerator and the denominator of the state assess-
45 ments and other comparable measures subcomponent such that the denomina-
46 tor is equal to forty points; and

47 (ii) Adding the result to the classroom teacher's or building princi-
48 pal's score on the other measures of teacher or principal effectiveness
49 subcomponent to generate an overall composite calculation out of one
50 hundred points.

51 4. Use. Notwithstanding any other provision of law, rule or regulation
52 to the contrary, if a calculation made pursuant to subdivision three of
53 this section would, compared to the rating pursuant to section three
54 thousand twelve-c of this article and the rules of the board of regents,
55 have resulted in a higher rating for a teacher or principal rated devel-
56 oping or ineffective:

1 a. The rating of ineffective or developing calculated pursuant to
2 section three thousand twelve-c of this article and the rules of the
3 board of regents shall not apply for the following employment related
4 decisions:

5 (1) a termination pursuant to sections twenty-five hundred nine, twenty-
6 five hundred seventy-three, three thousand twelve, three thousand
7 fourteen, three thousand twenty, three thousand twenty-a, or three thou-
8 sand thirty-one of this chapter;

9 (2) a granting or denial of tenure pursuant to section twenty-five
10 hundred nine, twenty-five hundred seventy-three, three thousand twelve,
11 three thousand fourteen or three thousand thirty-one of this chapter;

12 (3) expedited hearings pursuant to section three thousand twenty-a of
13 this article; or

14 (4) decisions related to retention.

15 The rating of ineffective or developing calculated pursuant to section
16 three thousand twelve-c of this chapter and the rules of the board of
17 regents shall not apply and the designation calculated pursuant to
18 subdivision three of this section shall be used for the requirement for
19 teacher or principal improvement plans pursuant to section three thou-
20 sand twelve-c of this article.

21 Provided, however, that nothing in this subdivision shall be construed
22 to prevent the use, for the purposes listed above, of the observations,
23 local assessments or other measures of the performance of the teacher or
24 principal, other than their rating or a state assessment aligned with
25 the common core, whether or not they were included in an annual profes-
26 sional performance review.

27 b. On individual employment records, except as provided under para-
28 graph a of this subdivision, and for purposes of disclosure to parents
29 pursuant to paragraph b of subdivision ten of section three thousand
30 twelve-c of this article, the rating pursuant to section three thousand
31 twelve-c of this article shall be reported with (i) the designation
32 calculated pursuant to subdivision three of this section and (ii) an
33 explanation of such additional designation.

34 § 3. Notwithstanding any inconsistent provision of law, a school
35 district shall be eligible for an apportionment of general support for
36 public schools from the funds appropriated for the 2015-16 school year
37 or 2016-17 school year in excess of the amount apportioned to such
38 school district in the base year, as defined in subdivision 1 of section
39 3602 of the education law as provided in the school aid computed listing
40 produced by the commissioner in support of the enacted budget for the
41 2015-16 school year and entitled "SA151-6".

42 § 4. This act shall take effect on the same date and in the same
43 manner as chapter 56 of the laws of 2015 amending the education law
44 relating to annual performance reviews of classroom teachers and build-
45 ing principals took effect, provided that it shall first apply to
46 employment decisions detailed in this act based on annual professional
47 performance review ratings received by classroom teachers and building
48 principals for the 2017-2018 and 2018-2019 school years.