

# STATE OF NEW YORK

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6750--A

2021-2022 Regular Sessions

## IN ASSEMBLY

March 29, 2021

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Introduced by M. of A. BENEDETTO -- read once and referred to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to the granting of tenure

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

1 Section 1. Paragraph (b) of subdivision 2 of section 3012 of the  
2 education law, as added by section 4 of subpart D of part EE of chapter  
3 56 of the laws of 2015, is amended to read as follows:

4 (b) At the expiration of the probationary term of a person appointed  
5 for such term on or after July first, two thousand fifteen, subject to  
6 the conditions of this section, the superintendent of schools shall make  
7 a written report to the board of education or the trustees of a common  
8 school district recommending for appointment on tenure those persons who  
9 have been found competent, efficient and satisfactory and, in the case  
10 of a classroom teacher or building principal, who have received compos-  
11 ite annual professional performance review ratings pursuant to section  
12 three thousand twelve-c or section three thousand twelve-d of this arti-  
13 cle, of either effective or highly effective in at least three of the  
14 four preceding years, exclusive of any breaks in service; provided that,  
15 notwithstanding any other provision of this section to the contrary,  
16 when a teacher or principal receives an effective or highly effective  
17 rating in each year of his or her probationary service except he or she  
18 receives an ineffective rating in the final year of his or her proba-  
19 tionary period, such teacher shall not be eligible for tenure but the  
20 board of education, in its discretion, may extend the teacher's proba-  
21 tionary period for an additional year; provided, however, that if such  
22 teacher or principal successfully appealed such ineffective rating, such  
23 teacher or principal shall immediately be eligible for tenure if the  
24 rating resulting from the appeal established that such individual has  
25 been effective or highly effective in at least three of the preceding

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

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four years and was not ineffective in the final year. At the expiration of the probationary period, the classroom teacher or building principal shall remain in probationary status until the end of the school year in which such teacher or principal has received such ratings of effective or highly effective for at least three of the four preceding school years, exclusive of any breaks in service, and subject to the terms hereof, during which time the trustees or board of education shall consider whether to grant tenure for those classroom teachers or building principals who otherwise have been found competent, efficient and satisfactory. Provided, however, that the trustees or board of education may grant tenure contingent upon a classroom teacher's or building principal's receipt of a minimum rating in the final year of the probationary period, pursuant to the requirements of this section, and if such contingency is not met after all appeals have been exhausted, the grant of tenure shall be void and unenforceable and the teacher's or principal's probationary period may be extended in accordance with this subdivision. Such persons who have been recommended for tenure and all others employed in the teaching service of the schools of such school district who have served the full probationary period as extended pursuant to this subdivision shall hold their respective positions during good behavior and efficient and competent service, and shall not be removable except for cause after a hearing as provided by section three thousand twenty-a or section three thousand twenty-b of this article. Failure to maintain certification as required by this chapter and the regulations of the commissioner shall constitute cause for removal. Provided that, at the expiration of the probationary term of a classroom teacher or building principal described herein who was appointed during the two thousand seventeen--two thousand eighteen, two thousand eighteen--two thousand nineteen and two thousand nineteen--two thousand twenty school years, such individual shall be eligible for tenure if he or she received composite annual professional performance review ratings pursuant to section three thousand twelve-c or section three thousand twelve-d of this article, of either effective or highly effective in at least one of the four preceding years and did not receive an ineffective rating in the final year of his or her probationary period, or during the most recent school year where a rating was received. Any probationary classroom teacher hired during the two thousand twenty--two thousand twenty-one school year who was appointed on tenure in another school district within the state, the school district where currently employed, board of cooperative educational services or state school for the blind or deaf and who was not dismissed from such district, board or state school for the blind or deaf as a result of charges brought pursuant to subdivision one of section three thousand twenty-a or section three thousand twenty-b of this article, shall be appointed for a probationary period of three years; provided that, in the case of a classroom teacher such individual demonstrates that he or she received an annual professional performance review rating pursuant to section three thousand twelve-c or section three thousand twelve-d of this article in the two thousand seventeen--two thousand eighteen or two thousand eighteen--two thousand nineteen school year. Any probationary classroom teachers or building principals described herein who were appointed during the two thousand twenty--two thousand twenty-one school year shall be eligible for tenure at the expiration of his or her probationary period if he or she received composite annual professional performance review ratings pursuant to section three thousand twelve-c or section three thousand twelve-d of this article of either effective or highly effective in at

1 least two of the four preceding years and did not receive an ineffective  
2 rating in the final year of his or her probationary period, or during  
3 the most recent school year where a rating was received.

4 § 2. Section 3012-d of the education law is amended by adding a new  
5 subdivision 17 to read as follows:

6 17. Notwithstanding any other provision of this section, for the two  
7 thousand twenty--two thousand twenty-one school year, no school district  
8 or board of cooperative educational services shall complete an annual  
9 professional performance review required by this section for any class-  
10 room teacher or building principal and state funding shall not be with-  
11 held from any school district for not completing the annual professional  
12 performance review.

13 § 3. Paragraph (b) of subdivision 2 of section 3014 of the education  
14 law, as added by section 5 of subpart D of part EE of chapter 56 of the  
15 laws of 2015, is amended to read as follows:

16 (b) On or before the expiration of the probationary term of a person  
17 appointed for such term on or after July first, two thousand fifteen,  
18 the district superintendent of schools shall make a written report to  
19 the board of cooperative educational services recommending for appoint-  
20 ment on tenure persons who have been found competent, efficient and  
21 satisfactory and, in the case of a classroom teacher or building princi-  
22 pal, who have received composite annual professional performance review  
23 ratings pursuant to section three thousand twelve-c or section three  
24 thousand twelve-d of this article, of either effective or highly effec-  
25 tive in at least three of the four preceding years, exclusive of any  
26 breaks in service; provided that, notwithstanding any other provision of  
27 this section to the contrary, when a teacher or principal receives an  
28 effective or highly effective rating in each year of his or her proba-  
29 tionary service except he or she receives an ineffective rating in the  
30 final year of his or her probationary period, such teacher shall not be  
31 eligible for tenure but the board of education in its discretion, may  
32 extend the teacher's probationary period for an additional year;  
33 provided, however that if such teacher or principal successfully  
34 appealed such ineffective rating, such teacher or principal shall imme-  
35 diately be eligible for tenure if the rating resulting from the appeal  
36 established that such individual has been effective or highly effective  
37 in at least three of the preceding four years and was not ineffective in  
38 the final year. At the expiration of the probationary period, the class-  
39 room teacher or building principal shall remain in probationary status  
40 until the end of the school year in which such teacher or principal has  
41 received such ratings of effective or highly effective for at least  
42 three of the four preceding school years, exclusive of any breaks in  
43 service, during which time a board of cooperative educational services  
44 shall consider whether to grant tenure for those classroom teachers or  
45 building principals who otherwise have been found competent, efficient  
46 and satisfactory. Provided, however, that the board of cooperative  
47 educational services may grant tenure contingent upon a classroom teach-  
48 er's or building principal's receipt of a minimum rating in the final  
49 year of the probationary period, pursuant to the requirements of this  
50 section, and if such contingency is not met after all appeals have been  
51 exhausted, the grant of tenure shall be void and unenforceable and the  
52 teacher's or principal's probationary period may be extended in accord-  
53 ance with this subdivision. Such persons shall hold their respective  
54 positions during good behavior and competent and efficient service and  
55 shall not be removed except for any of the following causes, after a  
56 hearing, as provided by section three thousand twenty-a or section three

1 thousand twenty-b of this article: (i) Insubordination, immoral charac-  
2 ter or conduct unbecoming a teacher; (ii) Inefficiency, incompetency, or  
3 neglect of duty; (iii) Failure to maintain certification as required by  
4 this chapter and by the regulations of the commissioner. Each person who  
5 is not to be so recommended for appointment on tenure shall be so noti-  
6 fied in writing by the district superintendent not later than sixty days  
7 immediately preceding the expiration of his or her probationary period.

8 Provided that, at the expiration of the probationary term of a classroom  
9 teacher or building principal described herein who was appointed during  
10 the two thousand seventeen--two thousand eighteen, two thousand eigh-  
11 teen--two thousand nineteen and two thousand nineteen--two thousand  
12 twenty school years, such individual shall be eligible for tenure if he  
13 or she received composite annual professional performance review ratings  
14 pursuant to section three thousand twelve-c or section three thousand  
15 twelve-d of this article of either effective or highly effective in at  
16 least one of the four preceding years and did not receive an ineffective  
17 rating in the final year of his or her probationary period or during the  
18 most recent school year where a rating was received. Any probationary  
19 classroom teacher, hired during the two thousand twenty--two thousand  
20 twenty-one school year who was appointed on tenure in another school  
21 district within the state, the school district where currently employed,  
22 board of cooperative educational services or state school for the blind  
23 or deaf and who was not dismissed from such district, board or state  
24 school for the blind or deaf as a result of charges brought pursuant to  
25 subdivision one of section three thousand twenty-a or section three  
26 thousand twenty-b of this article, such teacher, shall be appointed for  
27 a probationary period of three years; provided that, in the case of a  
28 classroom teacher such individual demonstrates that he or she received  
29 an annual professional performance review rating pursuant to section  
30 three thousand twelve-c or section three thousand twelve-d of this arti-  
31 cle in the two thousand seventeen--two thousand eighteen or two thousand  
32 eighteen--two thousand nineteen school year. Any probationary classroom  
33 teachers or building principals described herein who were appointed  
34 during the two thousand twenty--two thousand twenty-one school year  
35 shall be eligible for tenure at the expiration of his or her probation-  
36 ary period if he or she received composite annual professional perform-  
37 ance review ratings pursuant to section three thousand twelve-c or  
38 section three thousand twelve-d of this article of either effective or  
39 highly effective in at least two of the four preceding years and did not  
40 receive an ineffective rating in the final year of his or her probation-  
41 ary period, or during the most recent school year where a rating was  
42 received.

43 § 4. Paragraph b of subdivision 2 of section 2509 of the education  
44 law, as added by section 2 of subpart D of part EE of chapter 56 of the  
45 laws of 2015, is amended to read as follows:

46 b. For persons appointed on or after July first, two thousand fifteen,  
47 at the expiration of the probationary term of any persons appointed for  
48 such term, or within six months prior thereto, the superintendent of  
49 schools shall make a written report to the board of education recommend-  
50 ing for appointment on tenure those persons who have been found compe-  
51 tent, efficient and satisfactory and in the case of a classroom teacher  
52 or building principal, who have received annual professional performance  
53 review ratings pursuant to section three thousand twelve-c or section  
54 three thousand twelve-d of this chapter, of either effective or highly  
55 effective in at least three of the four preceding years, exclusive of  
56 any breaks in service; provided that, notwithstanding any other

1 provision of this section to the contrary, when a teacher or principal  
2 receives an effective or highly effective rating in each year of his or  
3 her probationary service except he or she receives an ineffective rating  
4 in the final year of his or her probationary period, such teacher or  
5 principal shall not be eligible for tenure but the board of education in  
6 its discretion, may extend the teacher's probationary period for an  
7 additional year; provided, however, that if such teacher or principal  
8 successfully appealed such ineffective rating, such teacher or principal  
9 shall immediately be eligible for tenure if the rating resulting from  
10 the appeal established that such individual has been effective or highly  
11 effective in at least three of the preceding four years and was not  
12 ineffective in the final year. By a majority vote, the board of educa-  
13 tion may then appoint on tenure any or all of the persons recommended by  
14 the superintendent of schools. At the expiration of the probationary  
15 period, the classroom teacher or building principal shall remain in  
16 probationary status until the end of the school year in which such  
17 teacher or principal has received such ratings of effective or highly  
18 effective for at least three of the four preceding school years exclu-  
19 sive of any breaks in service and subject to the terms hereof, during  
20 which time a board of education shall consider whether to grant tenure  
21 for those classroom teachers or building principals who otherwise have  
22 been found competent, efficient and satisfactory. Provided, however,  
23 that the board of education may grant tenure contingent upon a classroom  
24 teacher's or building principal's receipt of a minimum rating in the  
25 final year of the probationary period, pursuant to the requirements of  
26 this section, and if such contingency is not met after all appeals have  
27 been exhausted, the grant of tenure shall be void and unenforceable and  
28 the teacher's or principal's probationary period may be extended in  
29 accordance with this subdivision. Such persons who have been recommended  
30 for tenure and all others employed in the teaching service of the  
31 schools of such school district who have served the full probationary  
32 period as extended pursuant to this subdivision shall hold their respec-  
33 tive positions during good behavior and efficient and competent service,  
34 and shall not be removable except for cause after a hearing as provided  
35 by section three thousand twenty-a or section three thousand twenty-b of  
36 this chapter. Failure to maintain certification as required by this  
37 chapter and the regulations of the commissioner shall constitute cause  
38 for removal. Provided that, at the expiration of the probationary term  
39 of a classroom teacher or building principal described herein who was  
40 appointed during the two thousand seventeen--two thousand eighteen, two  
41 thousand eighteen--two thousand nineteen and two thousand nineteen--two  
42 thousand twenty school years, such individual shall be eligible for  
43 tenure if he or she received composite annual professional performance  
44 review ratings pursuant to section three thousand twelve-c or section  
45 three thousand twelve-d of this chapter of either effective or highly  
46 effective in at least one of the four preceding years and did not  
47 receive an ineffective rating in the final year of his or her probation-  
48 ary period or during the most recent school year where a rating was  
49 received. Any probationary classroom teacher hired during the two thou-  
50 sand twenty--two thousand twenty-one school year who was appointed on  
51 tenure in another school district within the state, the school district  
52 where currently employed, board of cooperative educational services or  
53 state school for the blind or deaf and who was not dismissed from such  
54 district, board or state school for the blind or deaf as a result of  
55 charges brought pursuant to subdivision one of section three thousand  
56 twenty-a or section three thousand twenty-b of this chapter, such teach-



er, shall be appointed for a probationary period of three years; provided that, in the case of a classroom teacher such individual demonstrates that he or she received an annual professional performance review rating pursuant to section three thousand twelve-c or section three thousand twelve-d of this chapter in the two thousand seventeen--two thousand eighteen or two thousand eighteen--two thousand nineteen school year. Any probationary classroom teachers or building principals described herein who were appointed during the two thousand twenty--two thousand twenty-one school year shall be eligible for tenure at the expiration of his or her probationary period if they have received composite annual professional performance review ratings pursuant to section three thousand twelve-c or section three thousand twelve-d of this chapter of either effective or highly effective in at least two of the four preceding years and did not receive an ineffective rating in the final year of his or her probationary period, or during the most recent school year where a rating was received.

§ 5. Subparagraph ii of paragraph (a) of subdivision 1 of section 2573 of the education law, as amended by section 3 of subpart D of part EE of chapter 56 of the laws of 2015, is amended to read as follows:

ii. Teachers and all other members of the teaching staff appointed on or after July first, two thousand fifteen and authorized by section twenty-five hundred fifty-four of this article, shall be appointed by the board of education, upon the recommendation of the superintendent of schools, for a probationary period of four years, except that in the case of a teacher who has rendered satisfactory service as a regular substitute for a period of two years and, if a classroom teacher, has received annual professional performance review ratings in each of those years, or has rendered satisfactory service as a seasonally licensed per session teacher of swimming in day schools who has served in that capacity for a period of two years and has been appointed to teach the same subject in day schools on an annual salary, the teacher shall be appointed for a probationary period of two years; provided, however, that in the case of a teacher who has been appointed on tenure in another school district within the state, the school district where currently employed, or a board of cooperative educational services, and who was not dismissed from such district or board as a result of charges brought pursuant to subdivision one of section three thousand twenty-a or section three thousand twenty-b of this chapter, the teacher shall be appointed for a probationary period of three years; provided that, in the case of a classroom teacher, the teacher demonstrates that he or she received an annual professional performance review rating pursuant to section three thousand twelve-c or section three thousand twelve-d of this chapter in his or her final year of service in such other school district or board of cooperative educational services; provided, however, that in cities with a population of one million or more, a teacher appointed under a newly created license, for teachers of reading and of the emotionally handicapped, to a position which the teacher has held for at least two years prior to such appointment while serving on tenure in another license area who was not dismissed as a result of charges brought pursuant to subdivision one of section three thousand twenty-a or section three thousand twenty-b of this chapter, the teacher shall be appointed for a probationary period of two years. The service of a person appointed to any of such positions may be discontinued at any time during such probationary period, on the recommendation of the superintendent of schools, by a majority vote of the board of education. Each person who is not to be recommended for appointment on tenure shall

be so notified by the superintendent of schools in writing not later than sixty days immediately preceding the expiration of his or her probationary period. In all city school districts subject to the provisions of this article, failure to maintain certification as required by this article and by the regulations of the commissioner shall be cause for removal within the meaning of subdivision five of this section. Provided that, at the expiration of the probationary term of a classroom teacher described herein who was appointed during the two thousand seventeen--two thousand eighteen, two thousand eighteen--two thousand nineteen and two thousand nineteen--two thousand twenty school years, such individual shall be eligible for tenure if he or she received composite annual professional performance review ratings pursuant to section three thousand twelve-c or section three thousand twelve-d of this chapter of either effective or highly effective in at least one of the four preceding years and did not receive an ineffective rating in the final year of his or her probationary period or during the most recent school year where a rating was received. Any probationary classroom teacher hired during the two thousand twenty--two thousand twenty-one school year who was appointed on tenure in another school district within the state, the school district where currently employed, board of cooperative educational services or state school for the blind or deaf and who was not dismissed from such district, board or state school for the blind or deaf as a result of charges brought pursuant to subdivision one of section three thousand twenty-a or section three thousand twenty-b of this chapter, such teacher shall be appointed for a probationary period of three years; provided that, in the case of a classroom teacher such individual demonstrates that he or she received an annual professional performance review rating pursuant to section three thousand twelve-c or section three thousand twelve-d of this chapter in the two thousand seventeen--two thousand eighteen or two thousand eighteen--two thousand nineteen school year. Any probationary classroom teachers described herein who were appointed during the two thousand twenty--two thousand twenty-one school year shall be eligible for tenure at the expiration of his or her probationary period if they have received composite annual professional performance review ratings pursuant to section three thousand twelve-c or section three thousand twelve-d of this chapter of either effective or highly effective in at least two of the four preceding years and did not receive an ineffective rating in the final year of his or her probationary period, or during the most recent school year where a rating was received.

§ 6. Subparagraph ii of paragraph (b) of subdivision 1 of section 2573 of the education law, as amended by chapter 345 of the laws of 2019, is amended to read as follows:

ii. Administrators, directors, supervisors, principals and all other members of the supervising staff, except executive directors, associate, assistant, district and community superintendents and examiners, appointed on or after July first, two thousand fifteen and authorized by section twenty-five hundred fifty-four of this article, shall be appointed by the board of education, upon the recommendation of the superintendent or chancellor of schools, for a probationary period of four years provided that such probationary period may be extended in accordance with paragraph (b) of subdivision five of this section; provided, however, that in the case of a principal, administrator, supervisor, or other member of the supervising staff who has been appointed on tenure pursuant to this chapter as an administrator within an authorized administrative tenure area in another school district

1 within the state, the school district where currently employed, or a  
2 board of cooperative educational services, and who was not dismissed  
3 from such district or board as a result of charges brought pursuant to  
4 subdivision one of section three thousand twenty-a or section three  
5 thousand twenty-b of this chapter, the principal, administrator, super-  
6 visor or other member of the supervising staff shall be appointed for a  
7 probationary period of three years. The service of a person appointed to  
8 any of such positions may be discontinued at any time during the proba-  
9 tionary period on the recommendation of the superintendent of schools,  
10 by a majority vote of the board of education. Provided that, at the  
11 expiration of the probationary term of a building principal described  
12 herein who was appointed during the two thousand seventeen--two thousand  
13 eighteen, two thousand eighteen--two thousand nineteen and two thousand  
14 nineteen--two thousand twenty school years, such individual shall be  
15 eligible for tenure if he or she received composite annual professional  
16 performance review ratings pursuant to section three thousand twelve-c  
17 or section three thousand twelve-d of this chapter of either effective  
18 or highly effective in at least one of the four preceding years and did  
19 not receive an ineffective rating in the final year of his or her proba-  
20 tionary period or during the most recent school year where a rating was  
21 received. Any probationary building principals described herein who were  
22 appointed during the two thousand twenty--two thousand twenty-one school  
23 year shall be eligible for tenure at the expiration of his or her proba-  
24 tionary period if they have received composite annual professional  
25 performance review ratings pursuant to section three thousand twelve-c  
26 or section three thousand twelve-d of this chapter of either effective  
27 or highly effective in at least two of the four preceding years and did  
28 not receive an ineffective rating in the final year of his or her proba-  
29 tionary period, or during the most recent school year where a rating was  
30 received.

31 § 7. This act shall take effect immediately.