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2021-2022 Regular Sessions

IN SENATE

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Introduced by Sens. REICHLIN-MELNICK, SKOUFIS, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend chapter 89 of the laws of 2016 relating to supplementary funding for dedicated programs for public school students in the East Ramapo central school district, in relation to the powers and duties of monitors in the East Ramapo central school district

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

Section 1. Paragraph (a) of section 3 of chapter 89 of the laws of 2016 relating to supplementary funding for dedicated programs for public school students in the East Ramapo central school district is amended and a new paragraph (c) is added to read as follows:

(a) Appointment of monitor team. In accordance with the powers and duties of the board of regents and the commissioner pursuant to subdivision 2 of section 305 of the education law, section 308 of the education law, and section 215 of the education law, ~~the commissioner shall appoint~~ up to ~~3~~ 2 monitors shall be appointed by and serve at the pleasure of the commissioner to carry out the provisions of this act including but not limited to providing oversight, guidance and technical assistance related to the educational and fiscal policies, practices, programs and decisions of the East Ramapo central school district, the board of education and the superintendent.

(c) The reasonable and necessary expenses incurred by the monitor or monitors while performing his or her official duties shall be paid by the school district. Notwithstanding any other provision of law, the monitor or monitors shall be entitled to defense and indemnification by the school district to the same extent as a school district employee.

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

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§ 2. Sections 4, 6, 7 and 8 of chapter 89 of the laws of 2016 relating to supplementary funding for dedicated programs for public school students in the East Ramapo central school district, section 8 as amended by section 42-b of part A of chapter 56 of the laws of 2020, are amended and four new sections 9, 10, 11 and 12 are added to read as follows:

§ 4. (a) (i) The monitor or monitors shall be entitled to attend all meetings of the board, including executive sessions; provided however, such monitor or monitors shall not be considered for purposes of establishing a quorum of the board, provided further that the monitor or monitors may be excused from executive sessions when [~~privileged issues~~] proposed, pending or current litigation involving the monitor or monitors or the department are being discussed. The East Ramapo central school district shall fully cooperate with any monitor or monitors appointed by the commissioner, including but not limited to providing such monitor or monitors with access, within 48 hours of such request from the monitor or monitors, to any necessary documents and records of the district including access to electronic information systems, databases and planning documents, consistent with all applicable state and federal statutes including but not limited to Family Educational Rights and Privacy Act (FERPA)(20 U.S.C. §1232g) and section 2-d of the education law. The monitor or monitors shall provide a copy of such request for any document or record to the board.

(ii) The board clerk shall provide the monitor or monitors with copies of the board agenda and all resolutions and motions on such agenda for each board meeting no later than 72 hours prior to such board meeting. If a proposed resolution or motion is for the purpose of approving a contract or to comply with state law or regulation and the date to comply with such law or regulation is within 21 days of the board meeting, the board clerk shall provide the monitor or monitors with copies of the proposed resolution and proposed contract language at least seven days prior to such meeting.

(iii) In the event the monitor or monitors are not provided with copies of proposed resolutions or motions 72 hours prior to a board meeting or in the case of a proposed resolution or motion for the purpose of approving a contract or to comply with state law or regulation, seven days prior to the next board meeting, the monitor or monitors may, at their discretion, remove an item including board resolutions or motions, except for resolutions or motions related to collective bargaining agreements negotiated in accordance with article 14 of the civil service law, from consideration by the board at such meeting. Upon the failure of the board clerk to provide proposed resolutions or motions as required by paragraphs (ii) and (iii) of this subdivision, the monitor or monitors shall provide notice of such failure to the board. An item removed from consideration by the monitor or monitors may not be reconsidered by the board for a period of 10 days or the next board meeting; whichever is later unless the monitor or monitors expressly authorizes consideration at an earlier date.

(b) The board, in consultation with the monitor or monitors, shall adopt a conflict of interest policy that complies with all existing applicable laws, rules and regulations that ensures its board members and administration act in the school district's best interest and comply with applicable legal requirements. The conflict of interest policy shall include, but not be limited to:

(i) a definition of the circumstances that constitute a conflict of interest;

1 (ii) procedures for disclosing a conflict of interest to the board;

2 (iii) a requirement that the person with the conflict of interest not
3 be present at or participate in board deliberations or votes on the
4 matter giving rise to such conflict, provided that nothing in this
5 subdivision shall prohibit the board from requesting that the person
6 with the conflict of interest present information as background or
7 answer questions at a board meeting prior to the commencement of delib-
8 erations or voting relating thereto;

9 (iv) a prohibition against any attempt by the person with the conflict
10 to influence improperly the deliberation or voting on the matter giving
11 rise to such conflict; and

12 (v) a requirement that the existence and resolution of the conflict be
13 documented in the board's records, including in the minutes of any meet-
14 ing at which the conflict was discussed or voted upon.

15 (c) In the event that the monitor or monitors find that an adopted
16 resolution or motion, a proposed resolution or motion, or that the
17 board's failure to act violates state law, the rules of the board of
18 regents, the regulations of the commissioner, or is inconsistent with
19 the terms of the long term strategic academic and fiscal improvement
20 plan, the monitor or monitors may:

21 (i) Override adopted or proposed resolutions or motions by the board
22 through the issuance of a directive which shall contain the specific
23 findings as to the necessity of such override and any potential correc-
24 tive action by the board that would address the deficiency in such
25 adopted or proposed resolution or motion. The monitor or monitors shall
26 provide written notice to the board, superintendent and commissioner of
27 their intention to override the adopted or proposed resolution or motion
28 at any time but in no event later than 48 hours after such resolution or
29 motion was adopted by the board unless the commissioner has extended the
30 period to override due to extenuating circumstances that necessitate
31 additional time. The override notice shall stay the proceedings of the
32 board on such adopted resolution or motion or, if the notice is provided
33 prior to action by the board, it shall remove such proposed resolution
34 or motion from consideration by the board pending the issuance of a
35 directive by the monitor or monitors. The monitor or monitors must
36 submit the directive to the board, superintendent and the commissioner
37 no later than 10 days following notice of such override. Upon the issu-
38 ance of a directive, the override of the board's adopted or proposed
39 resolution or motion shall be final and conclusive unless the monitor or
40 monitors fail to issue such directive within 10 days or within such
41 period established by the monitor or monitors if the period was
42 extended, withdraws such override, or the commissioner overrules the
43 monitor or monitors' override within 10 days of the issuance of the
44 directive. The monitor or monitors may extend the period to submit such
45 directive, at intervals of 10 additional days for each extension, if the
46 board, superintendent or school district employees fail to provide all
47 relevant information requested by the monitor or monitors related to the
48 adopted or proposed resolution or motion subject to such override within
49 48 hours of such request.

50 (ii) Submit a resolution for adoption by the board. The resolution
51 shall be submitted to the clerk no later than 48 hours prior to the next
52 scheduled board meeting who shall cause the resolution to be placed on
53 the next board meeting agenda and a copy to be issued to the board,
54 superintendent and commissioner accompanied by specific findings as to
55 the necessity of such resolution. The monitor or monitors may direct the
56 board to meet at a date prior to their next scheduled board meeting to

1 take up such resolution. The monitor or monitors may withdraw the
2 resolution prior to, or during, the next board meeting, if the board
3 takes sufficient action to resolve the issues contained in the resol-
4 ution. If the resolution is not withdrawn, it shall be deemed to be
5 adopted at the next board meeting through its submission and shall have
6 the full force and effect as any other resolution adopted by the board.

7 (iii) The monitor or monitors shall not override an adopted or
8 proposed resolution or motion or submit a resolution related to collec-
9 tive bargaining agreements negotiated in accordance with article 14 of
10 the civil service law.

11 (iv) The monitor or monitors shall not override an adopted or proposed
12 resolution or motion or submit a resolution that would diminish mandated
13 services to non-public schools in violation of state or federal laws,
14 rules or regulations.

15 (d) The monitor or monitors may direct the board, superintendent,
16 and/or other school district officers to undergo any training as deemed
17 necessary and pursuant to timelines established by the state monitor or
18 monitors. In no event shall the total number of training hours mandated
19 by the monitor or monitors exceed fifteen hours in a single calendar
20 year. However, the monitor or monitors may recommend additional train-
21 ing as deemed necessary.

22 (e) The monitor or monitors shall have the power to approve or disap-
23 prove the appointment of a superintendent by the board of education on
24 or after the effective date of this act. The board shall submit the
25 recommendation for superintendent to the monitor or monitors for
26 approval. The monitor or monitors shall have 10 days to approve or
27 disapprove the board's recommendation. If after such period no action is
28 taken by the monitor or monitors, the recommendation for superintendent
29 shall be deemed approved. If the monitor or monitors disapproves of the
30 appointment, then the board shall recommend a new candidate for the
31 monitor or monitors to approve or disapprove until an appointment is
32 approved by the monitor or monitors. In the event that a vacancy occurs
33 in the position of superintendent due to the disapproval of a recommen-
34 dation, the monitor or monitors may appoint a current school employee as
35 interim superintendent until a recommendation for superintendent is
36 approved.

37 § 6. Fiscal and operational oversight by the commissioner. During the
38 effective period of this act the commissioner shall undertake an
39 enhanced review of the district budget.

40 (a) The board of education [~~in consultation with the monitor or moni-~~
41 ~~ters~~] shall annually submit the school district's proposed budget for
42 the next succeeding school year to the [~~commissioner~~] monitor or moni-
43 tors no later than [~~45 days before the date scheduled for~~] March first
44 prior to the school district's annual budget vote. The [~~commissioner~~]
45 monitor or monitors shall review the budget to ensure that it, to the
46 greatest extent possible, is consistent with the long term strategic
47 academic and fiscal improvement plan developed and adopted pursuant to
48 this act and expands educational programming for students including but
49 not limited to extracurricular activities, course offerings, non-mandat-
50 ed support services, non-mandated art and music classes, programs and
51 services for English language learners and students with disabilities,
52 and maintaining class size. The [~~commissioner~~] monitor or monitors shall
53 also review the proposed budget to ensure that it is balanced within the
54 context of revenue and expenditure estimates and mandated programs. The
55 [~~commissioner~~] monitor or monitors shall present his or her findings to
56 the board of education and to the commissioner no later than [~~30~~] 45

1 days prior to the date scheduled for the school district's annual budget
2 vote. The commissioner shall require the board of education [~~shall~~] to
3 make adjustments to the proposed budget consistent with any recommenda-
4 tions made by the [~~commissioner~~] monitor or monitors if the commissioner
5 determines such amendments are necessary to comply with the long term
6 strategic academic and fiscal improvement plan under this act. The
7 school district shall make available on the district's website: the
8 initial proposed budget, the [~~commissioner's~~] monitor or monitors' find-
9 ings, and the final proposed budget [~~prior to the date of the school~~
10 ~~district's budget vote~~] at least seven days prior to the date of the
11 school district's budget hearing. In the event of a revote, the board of
12 education, in conjunction with the monitor or monitors, shall develop
13 and submit the school district's proposed budget for the next succeeding
14 school year to the commissioner no later than seven days prior to the
15 budget hearing. The board of education shall provide the commissioner
16 with any information he or she requests in order to make a determination
17 pursuant to this subdivision within three business days of such request.

18 (b) [~~The monitor or monitors appointed by the commissioner shall quar-~~
19 ~~terly, and the district shall annually provide to the commissioner~~
20 ~~reports on the fiscal and operational status of the school district to~~
21 ~~ensure compliance with subdivision (a) of this section. In addition,~~
22 ~~monitors shall provide an annual report to the commissioner and comp-~~
23 ~~troller on contracts that the district entered into throughout the year.~~
24 ~~All reports shall be subject to review by the comptroller at the request~~
25 ~~of the commissioner.]~~ The district shall provide quarterly reports to
26 the monitor or monitors and annual reports to the commissioner and board
27 of regents on the academic, fiscal, and operational status of the school
28 district. In addition, the monitor or monitors shall provide semi-annual
29 reports to the commissioner, board of regents, the governor, the tempo-
30 rary president of the senate, and the speaker of the assembly on the
31 academic, fiscal, and operational status of the school district. Such
32 semi-annual report shall include all the contracts that the district
33 entered into throughout the year. All reports shall be subject to
34 review by the comptroller at the request of the commissioner.

35 (c) The monitor or monitors shall have the authority to disapprove
36 travel outside the state paid for by the district.

37 (d) The monitor or monitors shall work with the district's shared
38 decision-making committee as defined in 8 NYCRR 100.11 in developing and
39 revising the long term strategic academic and fiscal improvement plan,
40 district goals, implementation of district priorities and budgetary
41 recommendations.

42 (e) The monitor or monitors shall assist in resolving any disputes and
43 conflicts, including but not limited to, those between the superinten-
44 dent and the board of education and among the members of the board of
45 education.

46 (f) The monitor or monitors may recommend, and the board shall consid-
47 er by vote of a resolution at the next scheduled meeting of the board,
48 cost saving measures including, but not limited to, shared service
49 agreements.

50 (g) The monitor or monitors shall not have the authority to recommend
51 the board diminish mandated services to non-public schools in violation
52 of state or federal laws, rules or regulations.

53 § 7. To ensure compliance with the [~~comprehensive expenditure plan~~]
54 long term strategic academic and fiscal improvement plan, in the event
55 the district plans to reduce budget appropriations for programs restored
56 or created under the [~~comprehensive expenditure plan or the strategic~~

1 ~~academic and fiscal improvement plan~~] long term strategic academic and
2 fiscal improvement plan as well as the sale of school buildings or other
3 real property and capital improvement contracts in excess of one hundred
4 thousand dollars (\$100,000), the district shall submit a plan to the
5 [~~commissioner~~] monitor or monitors for approval.

6 § 8. The commissioner may overrule any decision of the monitor or
7 monitors, except for decisions related to collective bargaining agree-
8 ments negotiated in accordance with article 14 of the civil service law
9 or decisions that would diminish mandated services to non-public schools
10 in violation of state or federal laws, rules or regulations, if he or
11 she deems that such decision is not aligned with the long term strategic
12 academic and fiscal improvement plan or the school district's budget or
13 is contrary to state law or regulation. If the commissioner overrules a
14 decision of the monitor or monitors, the commissioner may direct the
15 board to take corrective action on such matter if it is necessary to
16 comply with state law, regulation or the long term strategic academic
17 and fiscal improvement plan. In the event there is disagreement between
18 the monitors, the commissioner may resolve such disagreements and direct
19 the monitors to take action as a result of such resolution.

20 § 9. The monitor or monitors may notify the commissioner and the board
21 in writing when he or she deems the district is violating an element of
22 the long term strategic academic and fiscal improvement plan in this act
23 or the district failed to provide the monitor or monitors with requested
24 documents or records within the time frame prescribed in paragraph (i)
25 of subdivision one of section four of this act. Within twenty days, the
26 commissioner shall determine whether the district is in violation of any
27 of the elements of the plan highlighted by the monitor or monitors and
28 shall order the district to comply immediately with the plan and remedy
29 any such violation. The school district shall suspend all actions
30 related to the potential violation of the long term strategic academic
31 and fiscal improvement plan until the commissioner issues a determi-
32 nation. Within seven days, the commissioner shall determine if the
33 district failed to comply with the document and record provision set
34 forth in paragraph (i) of subdivision one of section four of this act
35 and shall order the district to immediately provide the monitor or moni-
36 tors with the requested documents or records.

37 § 10. In carrying out their powers and duties, the monitor or monitors
38 shall, to the greatest extent possible, account for the unique needs of
39 any racial, ethnic, linguistic, or religious minority groups within the
40 district.

41 § 11. (a) Within ninety days of the effective date of this act, the
42 board and superintendent shall appoint a community advisory board
43 comprised of ten persons who either reside in or are employed by the
44 East Ramapo Central School District. The superintendent and board shall
45 jointly appoint members to the community advisory board.

46 (b) The community advisory board, to the greatest extent possible,
47 shall include:

48 (i) at least one member who resides within the district and is the
49 parent of a student with special needs whose education is provided for
50 by the district;

51 (ii) at least one member for each of the three most common non-English
52 languages spoken by individuals in the district based on the most recent
53 decennial federal census;

54 (iii) at least one member who is a member of a civic league or organ-
55 ization not organized for profit but operated exclusively for the

1 promotion of social welfare whose mission includes advocating for the
2 civil rights of racial and ethnic minority groups;

3 (iv) at least one member who is the parent of a public school student;
4 and

5 (v) at least one member who is the parent of a non-public school
6 student.

7 (c) Each appointment made to the community advisory board may be used
8 to satisfy more than one of the requirements specified in subdivision
9 (b) of this section.

10 (d) The community advisory board shall meet with the monitor or moni-
11 tors at least four times each year and shall provide a range of communi-
12 ty perspectives on the important issues affecting the public and non-
13 public schools in the district.

14 (e) The members of the community advisory board shall receive no
15 compensation for their services.

16 (f) Each member of the community advisory board shall serve for a term
17 of one year. The superintendent and board shall jointly appoint or reap-
18 point members when a term expires. The superintendent and board shall
19 have the power to fill a vacancy.

20 § 12. Nothing in this act shall be construed to abrogate the duties
21 and responsibilities of the school district consistent with applicable
22 state law and regulations.

23 § 13. This act shall take effect July 1, 2016 and shall expire and be
24 deemed repealed June 30, [2021, except that paragraph (b) of section
25 five of this act and section seven of this act shall expire and be
26 deemed repealed June 30, 2021] 2025.

27 § 3. Paragraph (b) of section 5 of chapter 89 of the laws of 2016
28 relating to supplementary funding for dedicated programs for public
29 school students in the East Ramapo central school district, as amended
30 by section 48 of part YY of chapter 59 of the laws of 2017, is amended
31 to read as follows:

32 (b) [~~In order to receive such funds, the school district in consulta-~~
33 tion with] The board of education and the monitor or monitors shall
34 develop a long term strategic academic and fiscal improvement plan with-
35 in 6 months from the enactment of this act and shall annually revise
36 such plan by October first of each year thereafter. Such plan, includ-
37 ing such annual revisions thereto, shall be submitted to the commission-
38 er for approval and shall include a set of goals with appropriate bench-
39 marks and measurable objectives and identify strategies to address areas
40 where improvements are needed in the district, including but not limited
41 to its financial stability, academic opportunities and outcomes, educa-
42 tion of students with disabilities, education of English language lear-
43 ners, the educational, social and emotional welfare of public school
44 students and shall ensure compliance with all applicable state and
45 federal laws and regulations. The strategic academic and fiscal improve-
46 ment plan shall, to the maximum extent possible, consider the demograph-
47 ic makeup of the district and the unique needs of minority racial,
48 ethnic, religious and undocumented communities of interest. This
49 improvement plan shall also include a comprehensive expenditure plan
50 that will describe how any funds appropriated to the district in addi-
51 tion to those appropriated pursuant to sections 3602 and 3602-e of the
52 education law including but not limited to the funds made available to
53 the district pursuant to this section will be spent in the applicable
54 school year. The comprehensive expenditure plan shall ensure that funds
55 supplement, not supplant, expenditures from local, state and federal
56 funds for services provided to public school students, except that such

1 funds may be used to continue services funded pursuant to this act in
2 prior years. [~~Such expenditure plan shall be developed and annually~~
3 ~~revised in consultation with the monitor or monitors appointed by the~~
4 ~~commissioner.~~] The board of education [~~of the East Ramapo central school~~
5 ~~district~~] and monitor or monitors must annually conduct a public hearing
6 on [~~the expenditure plan~~] long term strategic academic and fiscal
7 improvement plan and shall consider the input of the community before
8 adopting or revising such plan. Such [~~the expenditure plan~~] long term
9 strategic academic and fiscal improvement plan shall also be made
10 publicly available and shall be annually submitted along with comments
11 made by the community to the commissioner for approval once the plan is
12 finalized. Upon review of the [~~improvement plan and the expenditure~~
13 ~~plan~~] long term strategic academic and fiscal improvement plan, required
14 to be submitted pursuant to this subdivision or section seven of this
15 act, the commissioner shall approve or deny such plan in writing and, if
16 denied, shall include the reasons therefor. The [~~district in consulta-~~
17 ~~tion with the monitors~~] board of education and monitor or monitors may
18 resubmit such plan or plans with any needed modifications thereto.

19 § 4. This act shall take effect immediately; provided, however, that
20 the amendments to chapter 89 of the laws of 2016 made by sections one,
21 two and three of this act shall not affect the repeal of such chapter
22 and shall be deemed to be repealed therewith.