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2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. MAYER, AKSHAR, GAUGHRAN, JACKSON, MAY, MYRIE, SALAZAR, SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Education

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

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

1 Section 1. Paragraphs (b) and (c) of subdivision 2 and subdivisions 7
2 and 8 of section 211-f of the education law, as added by section 1 of
3 subpart H of part EE of chapter 56 of the laws of 2015, are amended to
4 read as follows:

5 (b) The receiver shall be authorized to manage and operate the failing
6 or persistently failing school and shall have the power to supersede any
7 decision, policy or regulation of the superintendent of schools or chief
8 school officer, or of the board of education or another school officer
9 or the building principal that in the sole judgment of the receiver
10 conflicts with the school intervention plan; provided however that the
11 receiver may not supersede decisions that are not directly linked to the
12 school intervention plan, including but not limited to employment deci-
13 sions, building usage plans, co-location decisions and transportation of
14 students. The receiver shall have authority to review proposed school
15 district budgets prior to presentation to the district voters, or in the
16 case of a city school district in a city having a population of one
17 hundred twenty-five thousand or more, of the adoption of a contingency
18 budget, prior to approval by the board of education, and to modify the
19 proposed budget to conform to the school intervention plan provided that
20 such modifications shall be limited in scope and effect to the failing
21 or persistently failing school and may not unduly impact other schools
22 in the district. A school under receivership shall operate in accord-

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

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1 ance with laws regulating other public schools, except as such
2 provisions may conflict with this section.

3 (c) The commissioner shall contract with the receiver, and the compen-
4 sation and other costs of the receiver appointed by the commissioner
5 shall be paid from a state appropriation for such purpose, or by the
6 school district, as determined by the commissioner, provided that costs
7 shall be paid by the school district only if there is an open adminis-
8 trative staffing line available for the receiver, and the receiver will
9 be taking on the responsibilities of such open line. Notwithstanding
10 any other provision of law to the contrary, the receiver and any of its
11 employees providing services in the receivership shall be entitled to
12 defense and indemnification by the school district to the same extent as
13 a school district employee. The receiver's contract may be terminated by
14 the commissioner for a violation of law or the commissioner's regu-
15 lations or for neglect of duty. A receiver appointed to operate a
16 district under this section shall have full managerial and operational
17 control over such school; provided, however, that the board of education
18 shall remain the employer of record, and provided further that any
19 employment decisions of the board of education ~~[may]~~ shall not be super-
20 seded by the receiver. It shall be the duty of the board of education
21 and the superintendent of schools to fully cooperate with the receiver
22 and willful failure to cooperate or interference with the functions of
23 the receiver shall constitute willful neglect of duty for purposes of
24 section three hundred six of this title. The receiver or the receiver's
25 designee shall be an ex officio non-voting member of the board of educa-
26 tion entitled to attend all meetings of the board of education.

27 7. (a) Notwithstanding any general or special law to the contrary, in
28 creating and implementing the school intervention plan~~[, the receiver~~
29 ~~shall, after consulting with stakeholders and the community engagement~~
30 ~~team, convert schools]~~ all schools identified by the commissioner pursu-
31 ant to paragraphs (a) and (b) of subdivision one of this section shall
32 be converted to community schools to provide expanded health, mental
33 health and other services to the students and their families.

34 ~~[In addition,]~~ (a-1) Notwithstanding any general or special law to the
35 contrary, in creating and implementing the school intervention plan the
36 receiver may: (i) review and if necessary expand, alter or replace the
37 curriculum and program offerings of the school, including the implemen-
38 tation of research-based early literacy programs, early interventions
39 for struggling readers and the teaching of advanced placement courses or
40 other rigorous nationally or internationally recognized courses, if the
41 school does not already have such programs or courses; (ii) ~~[replace~~
42 ~~teachers and administrators, including school leadership who are not~~
43 ~~appropriately certified or licensed; (iii)]~~ increase salaries of current
44 or prospective teachers and administrators to attract and retain high-
45 performing teachers and administrators; ~~[(iv)]~~ (iii) establish steps to
46 improve hiring, induction, teacher evaluation, professional development,
47 teacher advancement, school culture and organizational structure; ~~[(v)]~~
48 (iv) reallocate the uses of the existing budget of the school; ~~[(vi)]~~
49 (v) expand the school day or school year or both of the school; ~~[(vii)]~~
50 (vi) for a school that offers the first grade, add pre-kindergarten and
51 full-day kindergarten classes, if the school does not already have such
52 classes; ~~[(viii) in accordance with paragraphs (b) and (c) of this~~
53 ~~subdivision,]~~ (vii) to abolish the positions of all members of the
54 teaching and administrative and supervisory staff assigned to the fail-
55 ing or persistently failing school and terminate the employment of any
56 building principal assigned to such a school, and require such staff

1 members to reapply for their positions in the school if they so choose;
2 ~~[(ix)]~~ (viii) include a provision of a job-embedded professional devel-
3 opment for teachers at the school, with an emphasis on strategies that
4 involve teacher input and feedback; ~~[(x)]~~ (ix) establish a plan for
5 professional development for administrators at the school, with an
6 emphasis on strategies that develop leadership skills and use the prin-
7 ciples of distributive leadership; and/or ~~[(xi)]~~ (x) order the conver-
8 sion of a school in receivership that has been designated as failing or
9 persistently failing pursuant to this section into a charter school,
10 provided that such conversion shall be subject to article fifty-six of
11 this chapter and provided further that such charter conversion school
12 shall operate pursuant to such article and provided further that such
13 charter conversion school shall operate consistent with a community
14 schools model and provided further that such conversion charter school
15 shall be subject to the provisions in subdivisions three, four, five,
16 six, nine, ten, eleven, twelve and thirteen of this section.

17 ~~[(b) Notwithstanding any other provision of law, rule or regulation to~~
18 ~~the contrary, upon designation of any school of the school district as a~~
19 ~~failing or persistently failing school pursuant to this section, the~~
20 ~~abolition of positions of members of the teaching and administrative and~~
21 ~~supervisory staff of the school shall thereafter be governed by the~~
22 ~~applicable provisions of section twenty five hundred ten, twenty five~~
23 ~~hundred eighty five, twenty five hundred eighty eight or three thousand~~
24 ~~thirteen of this chapter as modified by this paragraph. A classroom~~
25 ~~teacher or building principal who has received two or more composite~~
26 ~~ratings of ineffective on an annual professional performance review~~
27 ~~shall be deemed not to have rendered faithful and competent service~~
28 ~~within the meaning of section twenty five hundred ten, twenty five~~
29 ~~hundred eighty five, twenty five hundred eighty eight or three thousand~~
30 ~~thirteen of this chapter. When a position of a classroom teacher or~~
31 ~~building principal is abolished, the services of the teacher or adminis-~~
32 ~~trator or supervisor within the tenure area of the position with the~~
33 ~~lowest rating on the most recent annual professional performance review~~
34 ~~shall be discontinued, provided that seniority within the tenure area of~~
35 ~~the position shall be used solely to determine which position should be~~
36 ~~discontinued in the event of a tie.~~

37 ~~[(c) The receiver may abolish the positions of all teachers and peda-~~
38 ~~gogical support staff, administrators and pupil personnel service~~
39 ~~providers assigned to a school designated as failing or persistently~~
40 ~~failing pursuant to this section and require such staff members to reap-~~
41 ~~ply for new positions if they so choose. The receiver shall define new~~
42 ~~positions for the school aligned with the school intervention plan,~~
43 ~~including selection criteria and expected duties and responsibilities~~
44 ~~for each position. For administrators and pupil personnel service~~
45 ~~providers, the receiver shall have full discretion over all such rehir-~~
46 ~~ing decisions. For teachers and pedagogical support staff, the receiver~~
47 ~~shall convene a staffing committee including the receiver, two appoint-~~
48 ~~ees of the receiver and two appointees selected by the school staff or~~
49 ~~their collective bargaining unit. The staffing committee will determine~~
50 ~~whether former school staff reapplying for positions are qualified for~~
51 ~~the new positions. The receiver shall have full discretion regarding~~
52 ~~hiring decisions but must fill at least fifty percent of the newly~~
53 ~~defined positions with the most senior former school staff who are~~
54 ~~determined by the staffing committee to be qualified. Any remaining~~
55 ~~vacancies shall be filled by the receiver in consultation with the~~
56 ~~staffing committee. Notwithstanding any other provision of law to the~~

~~contrary, a member of the teaching and pedagogical support, administrative, or pupil personnel service staff who is not rehired pursuant to this paragraph shall not have any right to bump or displace any other person employed by the district, but shall be placed on a preferred eligibility list in accordance with the applicable provisions of section twenty-five hundred ten, twenty-five hundred eighty-five, twenty-five hundred eighty-eight or three thousand thirteen of this chapter. Teachers rehired pursuant to this paragraph shall maintain their prior status as tenured or probationary, and a probationary teacher's probation period shall not be changed.~~

~~(d)~~ (b) For a school with English language learners, the professional development and planning time for teachers and administrators identified in clauses (v) and (vi) ~~[and (vii) of the closing paragraph]~~ of paragraph ~~(a)~~ (a-1) of this subdivision, shall include specific strategies and content designed to maximize the rapid academic achievement of the English language learners.

8. (a) In order to maximize the rapid achievement of students at the applicable school, the receiver may request that the collective bargaining unit or units representing teachers and administrators and the receiver, on behalf of the board of education, negotiate a receivership agreement that modifies the applicable collective bargaining agreement or agreements with respect to any failing schools in receivership applicable during the period of receivership. The receivership agreement may address the following subjects: the length of the school day; the length of the school year; professional development for teachers and administrators; class size; and changes to the programs, assignments, and teaching conditions in the school in receivership. The receivership agreement shall not provide for any reduction in compensation unless there shall also be a proportionate reduction in hours and 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 a ratification vote 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 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 a ratification vote 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 profes-~~

~~sional 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.]~~

§ 2. This act shall take effect July 1, 2022.