S T A T E O F N E W Y O R K

10442

I N A S S E M B L Y

March 26, 2010

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

AN ACT to amend the education law, in relation to disciplinary hearings and procedures for teachers in the city district of the city of New York

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

Section 1. Subdivision 1 and subparagraph (i) of paragraph b of subdivision 3 of section 3020-a of the education law, as amended by chapter 691 of the laws of 1994, are amended to read as follows:

1. Filing of charges. All charges against a person enjoying the benefits of tenure as provided in subdivision three of section one thousand one hundred two, and sections two thousand five hundred nine, two thousand five hundred seventy-three, [twenty-five hundred ninety-j,] three thousand twelve and three thousand fourteen of this chapter shall be in writing and filed with the clerk or secretary of the school district or employing board during the period between the actual opening and closing of the school year for which the employed is normally required to serve. Except as provided in subdivision eight of section two thousand five hundred seventy-three [and subdivision seven of section twenty-five hundred ninety-j] of this chapter, no charges under this section shall be brought more than three years after the occurrence of the alleged incompetency or misconduct, except when the charge is of misconduct constituting a crime when committed.

(i) Hearing officers. All hearings pursuant to this section shall be conducted before and by a single hearing officer selected as provided for in this section. A hearing officer shall not be eligible to serve as such if he or she is a resident of the school district, [other than the city of New York,] under the jurisdiction of the employing board, an employee, agent or representative of the employing board or of any labor organization representing employees of such employing board, has served as such agent or representative within two years of the date of the scheduled hearing, or if he or she is then serving as a mediator or fact finder in the same school district. Notwithstanding any other provision

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

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of law, the hearing officer shall be compensated by the department with the customary fee paid for service as an arbitrator under the auspices of the association for each day of actual service plus necessary travel and other reasonable expenses incurred in the performance of his or her duties. All other expenses of the disciplinary proceedings shall be paid in accordance with rules promulgated by the commissioner of education.

S 2. The education law is amended by adding a new section 3020-b to read as follows:

S 3020-B. DISCIPLINARY PROCEDURES AND PENALTIES. 1. FILING OF CHARGES. ALL CHARGES AGAINST A PERSON ENJOYING THE BENEFITS OF TENURE AS PROVIDED IN SECTION TWENTY-FIVE HUNDRED NINETY-J OF THIS CHAPTER SHALL BE IN WRITING AND FILED WITH THE CLERK OR SECRETARY OF THE SCHOOL DISTRICT OR EMPLOYING BOARD DURING THE PERIOD BETWEEN THE ACTUAL OPENING AND CLOSING OF THE SCHOOL YEAR FOR WHICH THE EMPLOYED IS NORMALLY REQUIRED TO SERVE. EXCEPT AS PROVIDED IN SUBDIVISION SEVEN OF SECTION TWENTY-FIVE HUNDRED NINETY-J OF THIS CHAPTER, NO CHARGES UNDER THIS SECTION SHALL BE BROUGHT MORE THAN THREE YEARS AFTER THE OCCURRENCE OF THE ALLEGED INCOMPETENCY OR MISCONDUCT, EXCEPT WHEN THE CHARGE IS OF MISCONDUCT CONSTITUTING A CRIME WHEN COMMITTED.

2. DISPOSITION OF CHARGES. (A) UPON RECEIPT OF THE CHARGES, THE CLERK OR SECRETARY OF THE CITY DISTRICT OR EMPLOYING BOARD SHALL IMMEDIATELY NOTIFY SAID BOARD THEREOF. WITHIN FIVE DAYS AFTER RECEIPT OF CHARGES, THE EMPLOYING BOARD, IN EXECUTIVE SESSION, SHALL DETERMINE, BY A VOTE OF A MAJORITY OF ALL THE MEMBERS OF SUCH BOARD, WHETHER PROBABLE CAUSE EXISTS TO BRING A DISCIPLINARY PROCEEDING AGAINST AN EMPLOYEE PURSUANT TO THIS SECTION. IF SUCH DETERMINATION IS AFFIRMATIVE, A WRITTEN STATEMENT SPECIFYING THE CHARGES IN DETAIL, THE MAXIMUM PENALTY WHICH WILL BE IMPOSED BY THE BOARD IF THE EMPLOYEE DOES NOT REQUEST A HEARING OR THAT WILL BE SOUGHT BY THE BOARD IF THE EMPLOYEE IS FOUND GUILTY OF THE CHARGES AFTER A HEARING AND OUTLINING THE EMPLOYEE'S RIGHTS UNDER THIS SECTION, SHALL BE IMMEDIATELY FORWARDED TO THE ACCUSED EMPLOYEE BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED OR BY PERSONAL DELIVERY TO THE EMPLOYEE.

(B) THE EMPLOYEE MAY BE SUSPENDED PENDING A HEARING ON THE CHARGES AND THE FINAL DETERMINATION THEREOF. THE SUSPENSION SHALL BE WITHOUT PAY. THE EMPLOYEE SHALL BE TERMINATED WITHOUT A HEARING, AS PROVIDED FOR IN THIS SECTION, UPON CONVICTION OF A SEX OFFENSE, AS DEFINED IN SUBPARAGRAPH TWO OF PARAGRAPH B OF SUBDIVISION SEVEN-A OF SECTION THREE HUNDRED FIVE OF THIS CHAPTER. TO THE EXTENT THIS SECTION APPLIES TO AN EMPLOYEE ACTING AS A SCHOOL ADMINISTRATOR OR SUPERVISOR, AS DEFINED IN SUBPARAGRAPH THREE OF PARAGRAPH B OF SUBDIVISION SEVEN-B OF SECTION THREE HUNDRED FIVE OF THIS CHAPTER, SUCH EMPLOYEE SHALL BE TERMINATED WITHOUT A HEARING, AS PROVIDED FOR IN THIS SECTION, UPON CONVICTION OF A FELONY OFFENSE DEFINED IN SUBPARAGRAPH TWO OF PARAGRAPH B OF SUBDIVISION SEVEN-B OF SECTION THREE HUNDRED FIVE OF THIS CHAPTER.

(C) WITHIN TEN DAYS OF RECEIPT OF THE STATEMENT OF CHARGES, THE EMPLOYEE SHALL NOTIFY THE CLERK OR SECRETARY OF THE EMPLOYING BOARD IN WRITING WHETHER HE OR SHE DESIRES A HEARING ON THE CHARGES. SUCH HEARING SHALL BE REFERRED TO THE NEW YORK CITY OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS.

(D) THE UNEXCUSED FAILURE OF THE EMPLOYEE TO NOTIFY THE CLERK OR SECRETARY OF HIS OR HER DESIRE FOR A HEARING WITHIN TEN DAYS OF THE RECEIPT OF CHARGES SHALL BE DEEMED A WAIVER OF THE RIGHT TO A HEARING. WHERE AN EMPLOYEE REQUESTS A HEARING IN THE MANNER PROVIDED FOR BY THIS SECTION, THE CLERK OR SECRETARY OF THE BOARD SHALL, WITHIN THREE WORKING DAYS OF RECEIPT OF THE EMPLOYEE'S NOTICE OR REQUEST FOR A HEARING, NOTI-

FY THE COMMISSIONER OF EDUCATION OF THE NEED FOR A HEARING. IF THE EMPLOYEE WAIVES HIS OR HER RIGHT TO A HEARING THE EMPLOYING BOARD SHALL PROCEED, WITHIN FIFTEEN DAYS, BY A VOTE OF A MAJORITY OF ALL MEMBERS OF SUCH BOARD, TO DETERMINE THE CASE AND FIX THE PENALTY, IF ANY, TO BE IMPOSED IN ACCORDANCE WITH SUBDIVISION FOUR OF THIS SECTION.

3. HEARINGS. (A) NOTICE OF HEARING. UPON RECEIPT OF A REQUEST FOR A HEARING IN ACCORDANCE WITH SUBDIVISION TWO OF THIS SECTION, THE COMMISSIONER OF EDUCATION SHALL REFER ALL SUCH HEARINGS TO THE NEW YORK CITY OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS.

(B) NEW YORK CITY OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS. ALL HEARINGS PURSUANT TO THIS SECTION SHALL BE CONDUCTED BEFORE AND BY A SINGLE ADMINISTRATIVE LAW JUDGE FROM THE NEW YORK CITY OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS.

(C) HEARING PROCEDURES. (I) HEARINGS SHALL BE CONDUCTED BY AN ADMINISTRATIVE LAW JUDGE FROM THE NEW YORK CITY OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION WITH FULL AND FAIR DISCLOSURE OF THE NATURE OF THE CASE AND EVIDENCE AGAINST THE EMPLOYEE BY THE EMPLOYING BOARD AND SHALL BE PUBLIC OR PRIVATE AT THE DISCRETION OF THE EMPLOYEE.

(II) THE ADMINISTRATIVE LAW JUDGE CONDUCTING SUCH HEARING UNDER THIS SECTION SHALL, WITHIN TEN TO FIFTEEN DAYS OF BEING ASSIGNED TO SUCH HEARING, HOLD A PRE-HEARING CONFERENCE. THE PRE-HEARING CONFERENCE SHALL BE LIMITED IN LENGTH TO ONE DAY EXCEPT THAT THE ADMINISTRATIVE LAW JUDGE, IN HIS OR HER DISCRETION, MAY ALLOW ONE ADDITIONAL DAY FOR GOOD CAUSE SHOWN.

(III) AT THE PRE-HEARING CONFERENCE THE ADMINISTRATIVE LAW JUDGE SHALL HAVE THE POWER TO:

(A) ISSUE SUBPOENAS;

(B) HEAR AND DECIDE ALL MOTIONS, INCLUDING BUT NOT LIMITED TO MOTIONS TO DISMISS THE CHARGES; AND

(C) HEAR AND DECIDE ALL APPLICATIONS FOR BILLS OF PARTICULAR OR REQUESTS FOR PRODUCTION OF MATERIALS OR INFORMATION, INCLUDING, BUT NOT LIMITED TO, ANY WITNESS STATEMENT (OR STATEMENTS), INVESTIGATORY STATEMENT (OR STATEMENTS) OR NOTE (NOTES), EXCULPATORY EVIDENCE OR ANY OTHER EVIDENCE, INCLUDING DISTRICT OR STUDENT RECORDS, RELEVANT AND MATERIAL TO THE EMPLOYEE'S DEFENSE.

(IV) ANY PRE-HEARING MOTION OR APPLICATION RELATIVE TO THE SUFFICIENCY OF THE CHARGES, APPLICATION OR AMENDMENT THEREOF, OR ANY PRELIMINARY MATTERS SHALL BE MADE UPON WRITTEN NOTICE TO THE ADMINISTRATIVE LAW JUDGE AND THE ADVERSE PARTY NO LESS THAN FIVE DAYS PRIOR TO THE DATE OF THE PRE-HEARING CONFERENCE. ANY PRE-HEARING MOTIONS OR APPLICATIONS NOT MADE AS PROVIDED FOR HEREIN SHALL BE DEEMED WAIVED EXCEPT FOR GOOD CAUSE AS DETERMINED BY THE ADMINISTRATIVE LAW JUDGE.

(V) IN THE EVENT THAT AT THE PRE-HEARING CONFERENCE THE EMPLOYING BOARD PRESENTS EVIDENCE THAT THE PROFESSIONAL LICENSE OF THE EMPLOYEE HAS BEEN REVOKED AND ALL JUDICIAL AND ADMINISTRATIVE REMEDIES HAVE BEEN EXHAUSTED OR FORECLOSED, THE ADMINISTRATIVE LAW JUDGE SHALL SCHEDULE THE DATE AND TIME FOR AN EXPEDITED HEARING, WHICH HEARING SHALL COMMENCE NOT MORE THAN SEVEN DAYS AFTER THE PRE-HEARING CONFERENCE AND WHICH SHALL BE LIMITED TO ONE DAY. THE EXPEDITED HEARING SHALL NOT BE POSTPONED EXCEPT UPON THE REQUEST OF A PARTY AND THEN ONLY FOR GOOD CAUSE AS DETERMINED BY THE ADMINISTRATIVE LAW JUDGE.

(VI) DURING THE PRE-HEARING CONFERENCE, THE ADMINISTRATIVE LAW JUDGE SHALL DETERMINE THE REASONABLE AMOUNT OF TIME NECESSARY FOR A FINAL HEARING ON THE CHARGE OR CHARGES AND SHALL SCHEDULE THE TIME OR TIMES AND DATE OR DATES FOR THE FINAL HEARING. IN THE EVENT THAT THE ADMINIS-

TRATIVE LAW JUDGE DETERMINES THAT THE NATURE OF THE CASE REQUIRES THE FINAL HEARING TO LAST MORE THAN ONE DAY, THE DAYS THAT ARE SCHEDULED FOR THE FINAL HEARING SHALL BE CONSECUTIVE. THE DAY OR DAYS SCHEDULED FOR THE FINAL HEARING SHALL NOT BE POSTPONED EXCEPT UPON THE REQUEST OF A PARTY AND THEN ONLY FOR GOOD CAUSE SHOWN AS DETERMINED BY THE ADMINISTRATIVE LAW JUDGE. IN ALL CASES, THE FINAL HEARING SHALL BE COMPLETED NO LATER THAN THIRTY DAYS AFTER THE PRE-HEARING CONFERENCE UNLESS THE ADMINISTRATIVE LAW JUDGE DETERMINES THAT EXTRAORDINARY CIRCUMSTANCES WARRANT A LIMITED EXTENSION.

4. POST HEARING PROCEDURES. (A) THE ADMINISTRATIVE LAW JUDGE SHALL RENDER A WRITTEN DECISION WITHIN TWENTY-FOUR HOURS OF THE LAST DAY OF THE FINAL HEARING, OR IN THE CASE OF AN EXPEDITED HEARING WITHIN TWENTY-FOUR HOURS OF SUCH EXPEDITED HEARING, AND SHALL FORTHWITH FORWARD A COPY THEREOF TO THE COMMISSIONER OF EDUCATION WHO SHALL IMMEDIATELY FORWARD COPIES OF THE DECISION TO THE EMPLOYEE AND TO THE CLERK OR SECRETARY OF THE EMPLOYING BOARD. THE WRITTEN DECISION SHALL INCLUDE THE ADMINISTRATIVE LAW JUDGE'S FINDINGS OF FACT ON EACH CHARGE, HIS OR HER CONCLUSIONS WITH REGARD TO EACH CHARGE BASED ON SAID FINDINGS AND SHALL STATE WHAT PENALTY OR OTHER ACTION, IF ANY, SHALL BE TAKEN BY THE EMPLOYING BOARD. AT THE REQUEST OF THE EMPLOYEE, IN DETERMINING WHAT, IF ANY, PENALTY OR OTHER ACTION SHALL BE IMPOSED, THE ADMINISTRATIVE LAW JUDGE SHALL CONSIDER THE EXTENT TO WHICH THE EMPLOYING BOARD MADE EFFORTS TOWARDS CORRECTING THE BEHAVIOR OF THE EMPLOYEE WHICH RESULTED IN CHARGES BEING BROUGHT UNDER THIS SECTION THROUGH MEANS INCLUDING BUT NOT LIMITED TO: REMEDIATION, PEER INTERVENTION OR AN EMPLOYEE ASSISTANCE PLAN. IN THOSE CASES WHERE A PENALTY IS IMPOSED, SUCH PENALTY MAY BE A WRITTEN REPRIMAND, A FINE, SUSPENSION FOR A FIXED TIME WITHOUT PAY, OR DISMISSAL. IN ADDITION TO OR IN LIEU OF THE AFOREMENTIONED PENALTIES, THE ADMINISTRATIVE LAW JUDGE, WHERE HE OR SHE DEEMS APPROPRIATE, MAY IMPOSE UPON THE EMPLOYEE REMEDIAL ACTION INCLUDING BUT NOT LIMITED TO LEAVES OF ABSENCE WITH OR WITHOUT PAY, CONTINUING EDUCATION AND/OR STUDY, A REQUIREMENT THAT THE EMPLOYEE SEEK COUNSELING OR MEDICAL TREATMENT OR THAT THE EMPLOYEE ENGAGE IN ANY OTHER REMEDIAL OR COMBINATION OF REMEDIAL ACTIONS.

(B) WITHIN FIFTEEN DAYS OF RECEIPT OF THE ADMINISTRATIVE LAW JUDGE'S DECISION THE EMPLOYING BOARD SHALL IMPLEMENT THE DECISION. IF THE EMPLOYEE IS ACQUITTED HE OR SHE SHALL BE RESTORED TO HIS OR HER POSITION WITH FULL PAY FOR ANY PERIOD OF SUSPENSION WITHOUT PAY AND THE CHARGES EXPUNGED FROM THE EMPLOYMENT RECORD. IF AN EMPLOYEE WHO WAS CONVICTED OF A FELONY CRIME SPECIFIED IN PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION, HAS SAID CONVICTION REVERSED, THE EMPLOYEE, UPON APPLICATION, SHALL BE ENTITLED TO HAVE HIS OR HER PAY AND OTHER EMOLUMENTS RESTORED, FOR THE PERIOD FROM THE DATE OF HIS OR HER SUSPENSION TO THE DATE OF THE DECISION.

(C) THE ADMINISTRATIVE LAW JUDGE SHALL INDICATE IN THE DECISION WHETHER ANY OF THE CHARGES BROUGHT BY THE EMPLOYING BOARD WERE FRIVOLOUS AS DEFINED IN SECTION EIGHT THOUSAND THREE HUNDRED THREE-A OF THE CIVIL PRACTICE LAW AND RULES. IF THE ADMINISTRATIVE LAW JUDGE FINDS THAT ALL OF THE CHARGES BROUGHT AGAINST THE EMPLOYEE WERE FRIVOLOUS, THE ADMINISTRATIVE LAW JUDGE SHALL ORDER THE EMPLOYING BOARD TO REIMBURSE THE STATE EDUCATION DEPARTMENT THE REASONABLE COSTS SAID DEPARTMENT INCURRED AS A RESULT OF THE PROCEEDING AND TO REIMBURSE THE EMPLOYEE THE REASONABLE COSTS, INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS' FEES, THE EMPLOYEE INCURRED IN DEFENDING THE CHARGES. IF THE ADMINISTRATIVE LAW JUDGE FINDS THAT SOME BUT NOT ALL OF THE CHARGES BROUGHT AGAINST THE EMPLOYEE WERE FRIVOLOUS, THE ADMINISTRATIVE LAW JUDGE SHALL ORDER THE

EMPLOYING BOARD TO REIMBURSE THE STATE EDUCATION DEPARTMENT A PORTION, IN THE DISCRETION OF THE ADMINISTRATIVE LAW JUDGE, OF THE REASONABLE COSTS SAID DEPARTMENT INCURRED AS A RESULT OF THE PROCEEDING AND TO REIMBURSE THE EMPLOYEE A PORTION, IN THE DISCRETION OF THE ADMINISTRATIVE LAW JUDGE, OF THE REASONABLE COSTS, INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS' FEES, THE EMPLOYEE INCURRED IN DEFENDING THE CHARGES.

5. APPEAL. NOT LATER THAN TEN DAYS AFTER RECEIPT OF THE ADMINISTRATIVE LAW JUDGE'S DECISION, THE EMPLOYEE OR THE EMPLOYING BOARD MAY MAKE AN APPLICATION TO THE NEW YORK STATE SUPREME COURT TO VACATE OR MODIFY THE DECISION OF THE ADMINISTRATIVE LAW JUDGE PURSUANT TO SECTION SEVEN THOUSAND FIVE HUNDRED ELEVEN OF THE CIVIL PRACTICE LAW AND RULES. THE COURT'S REVIEW SHALL BE LIMITED TO THE GROUNDS SET FORTH IN SUCH SECTION. THE ADMINISTRATIVE LAW JUDGE'S DETERMINATION SHALL BE DEEMED TO BE FINAL FOR THE PURPOSE OF SUCH PROCEEDING. IN NO CASE SHALL THE FILING OR THE PENDENCY OF AN APPEAL DELAY THE IMPLEMENTATION OF THE DECISION OF THE ADMINISTRATIVE LAW JUDGE.

S 3. Paragraph (t) of subdivision 1 of section 2590-f of the education law, as amended by chapter 345 of the laws of 2009, is amended to read as follows:

(t) notwithstanding any provisions of law to the contrary, to exercise all of the duties and responsibilities of the employing board as set forth in section [three thousand twenty-a] THREE THOUSAND TWENTY-B of this chapter pursuant to a delegation of the chancellor under section twenty-five hundred ninety-h of this article.

S 4. Paragraph (s) of subdivision 1 of section 2590-f of the education law, as added by chapter 385 of the laws of 1998, is amended to read as follows:

[(s)] (T) notwithstanding any provisions of law to the contrary, to exercise all of the duties and responsibilities of the employing board as set forth in section [three thousand twenty-a] THREE THOUSAND TWENTY-B of this chapter pursuant to a delegation of the chancellor under section twenty-five hundred ninety-h of this article.

S 5. Subdivision 38 of section 2590-h of the education law, as amended by chapter 345 of the laws of 2009, is amended to read as follows:

38. To exercise all of the duties and responsibilities of the employing board as set forth in section [three thousand twenty-a] THREE THOUSAND TWENTY-B of this chapter with respect to any member of the teaching or supervisory staff of schools under the jurisdiction of the community district education councils. The chancellor shall exercise all such duties and responsibilities for all community districts or may delegate the exercise of all such duties and responsibilities to all of the community superintendents of the city district.

S 6. Subdivision 38 of section 2590-h of the education law, as added by chapter 385 of the laws of 1998, is amended to read as follows:

38. to exercise all of the duties and responsibilities of the employing board as set forth in section [three thousand twenty-a] THREE THOUSAND TWENTY-B of this chapter with respect to any member of the teaching or supervisory staff of schools under the jurisdiction of the community boards. The chancellor shall exercise all such duties and responsibilities for all community districts or may delegate the exercise of all such duties and responsibilities to all of the community superintendents of the city district.

S 7. Subdivision 38-a of section 2590-h of the education law, as amended by chapter 345 of the laws of 2009, is amended to read as follows:

38-a. To exercise all of the duties and responsibilities of the employing board as set forth in section [three thousand twenty-a] THREE THOUSAND TWENTY-B of this chapter with respect to any member of the teaching or supervisory staff of schools which are not covered under subdivision thirty-eight of this section. Provided, however that the city board shall maintain jurisdiction over any consequence resulting from an employee waiver of a hearing, as provided for in paragraph (d) of subdivision two of section [three thousand twenty-a] THREE THOUSAND TWENTY-B of this chapter.

S 8. Subdivisions 7 and 8-a of section 2590-j of the education law, subdivision 7 as amended by chapter 385 of the laws of 1998 and subdivision 8-a as amended by chapter 720 of the laws of 1996, are amended to read as follows:

7. (a) No member of the teaching or supervisory staff of schools who has served the full and appropriate probationary period prescribed by, or in accordance with law, shall be found guilty of any charges except after a hearing as provided by section [three thousand twenty-a] THREE THOUSAND TWENTY-B of this chapter.

(b) Charges may be initiated by the community superintendent against any such employee for any of the following offenses:

(1) Unauthorized absence from duty or excessive lateness;

(2) Neglect of duty;

(3) Conduct unbecoming his position, or conduct prejudicial to the good order, efficiency or discipline of the service;

(4) Incompetent or inefficient service;

(5) A violation of the by-laws, rules or regulations of the city board, chancellor, or the community board; or

(6) Any substantial cause that renders the employee unfit to perform his obligations properly to the service.

(c) The community superintendent, in advance of the filing of charges and specifications, shall inform the employee accused and the community board of the nature of the complaint. No charge shall be brought outside the statute of limitation period provided for in section [three thousand twenty-a] THREE THOUSAND TWENTY-B of this chapter.

(d) Upon the service of a copy of the charges upon such employee, the community superintendent may recommend to the chancellor the suspension of any such employee. If the chancellor shall determine that the nature of the charge requires the immediate removal of the employee from his assigned duties, he may suspend such employee for a period not exceeding ninety days pending hearing and determination of charges, provided however, that such employee shall be entitled to receive full compensation during the period of suspension. In case the employee is acquitted, he shall be restored to his position.

8-a. Notwithstanding the provisions of subdivision eight of this section, a community superintendent shall request the chancellor to transfer a principal pursuant to subdivision twenty-five of section twenty-five hundred ninety-h of this article, or to remove or otherwise discipline the principal pursuant to section [three thousand twenty-a] THREE THOUSAND TWENTY-B of this chapter, or to require the principal to participate in training and staff development, or to take other actions to promote student achievement and school performance, where appropriate, consistent with the obligations of the superintendent pursuant to section twenty-five hundred ninety-f and the provisions of section twenty-five hundred ninety-i of this article.

S 9. The chancellor of the city district of the city of New York shall refer all existing disciplinary hearings for teachers from such city

district to the New York City Office of Administrative Trials and Hearings upon the effective date of this act.

S 10. This act shall take effect immediately, provided however the amendments to paragraph (t) of subdivision 1 of section 2590-f of the education law made by section three of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 34 of chapter 91 of the laws of 2002, as amended, when upon such date the provisions of section four of this act shall take effect, provided further that the amendments to subdivision 38 of section 2590-h of the education law made by section five of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 34 of chapter 91 of the laws of 2002, as amended, when upon such date the provisions of section six of this act shall take effect, provided further, that the amendments to subdivision 38-a of section 2590-h of the education law made by section seven of this act shall not affect the repeal of such subdivision and shall be deemed to repeal therewith.