

7987

I N S E N A T E

May 27, 2010

Introduced by Sen. FLANAGAN -- 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 powers and duties of boards of cooperative educational services, to the operation and management of and enrollment at charter schools, and to increasing the cap on the total number of charter schools in the state to four hundred sixty (Part A); and to amend the education law, in relation to the evaluation of teachers and principals (Part B)

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

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to enact this chapter of the laws of 2010. Each
3 component is wholly contained within a Part identified as Parts A
4 through B. The effective date for each particular provision contained
5 within such Part is set forth in the last section of such Part. Any
6 provision in any section contained within a Part, including the effec-
7 tive date of the Part, which makes reference to a section "of this act",
8 when used in connection with that particular component, shall be deemed
9 to mean and refer to the corresponding section of the Part in which it
10 is found. Section three of this act sets forth the general effective
11 date of this act.

12 PART A

13 Section 1. Paragraph h of subdivision 4 of section 1950 of the educa-
14 tion law is amended by adding a new subparagraph 8 to read as follows:

15 (8) TO ENTER INTO CONTRACTS WITH CHARTER SCHOOLS AUTHORIZED BY ARTICLE
16 FIFTY-SIX OF THIS CHAPTER TO PROVIDE SERVICES AS AUTHORIZED BY THIS
17 SECTION.

18 S 2. Paragraph (c) of subdivision 2 of section 2851 of the education
19 law, as added by chapter 4 of the laws of 1998, is amended to read as
20 follows:

21 (c) The proposed governance structure of the school, including a list
22 of members of the initial board of trustees, a description of the quali-

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

LBD17558-02-0

1 fications, terms and method of appointment or election of trustees, the
2 organizational structure of the school, A PROCEDURE FOR CONDUCTING AND
3 PUBLICIZING REGULAR BOARD OF TRUSTEE MEETINGS AT EACH CHARTER SCHOOL,
4 and the processes to be followed by the school to promote parental and
5 staff involvement in school governance.

6 S 3. Paragraph (p) of subdivision 2 of section 2851 of the education
7 law, as added by chapter 4 of the laws of 1998, is amended to read as
8 follows:

9 (p) The term of the proposed charter, which shall not exceed five
10 SCHOOL years IN WHICH INSTRUCTION IS PROVIDED TO PUPILS, PLUS THE PERIOD
11 COMMENCING WITH THE EFFECTIVE DATE OF THE CHARTER AND ENDING WITH THE
12 OPENING OF THE SCHOOL FOR INSTRUCTION.

13 S 4. Paragraph (v) of subdivision 2 of section 2851 of the education
14 law, as added by chapter 4 of the laws of 1998, is amended to read as
15 follows:

16 (v) A code of ethics for the charter school, setting forth for the
17 guidance of its trustees, officers and employees the standards of
18 conduct expected of them INCLUDING STANDARDS WITH RESPECT TO DISCLOSURE
19 OF CONFLICTS OF INTEREST REGARDING ANY MATTER BROUGHT BEFORE THE BOARD
20 OF TRUSTEES. SUCH CODE OF ETHICS SHALL INCLUDE BUT SHALL NOT BE LIMITED
21 TO COMPLIANCE WITH THE PROVISIONS OF SECTIONS EIGHT HUNDRED, EIGHT
22 HUNDRED ONE, EIGHT HUNDRED TWO, EIGHT HUNDRED THREE, EIGHT HUNDRED FOUR,
23 EIGHT HUNDRED FOUR-A, EIGHT HUNDRED FIVE, EIGHT HUNDRED FIVE-A, EIGHT
24 HUNDRED FIVE-B AND EIGHT HUNDRED SIX OF THE GENERAL MUNICIPAL LAW TO THE
25 SAME EXTENT SUCH SECTIONS APPLY TO SCHOOL DISTRICTS.

26 S 5. Subdivision 4 of section 2851 of the education law is amended by
27 adding a new paragraph (e) to read as follows:

28 (E) A DEMONSTRATION OF THE EFFORTS TO BE TAKEN BY THE CHARTER SCHOOL
29 TO ATTRACT AND RETAIN HIGH-NEED STUDENTS, INCLUDING STUDENTS AT RISK OF
30 EDUCATIONAL FAILURE OR STUDENTS WHO ARE OTHERWISE IN NEED OF SPECIAL
31 ASSISTANCE AND SUPPORT WHICH SHALL BE CONSIDERED BY THE CHARTER ENTITY
32 PRIOR TO APPROVING AN APPLICATION FOR RENEWAL OF A CHARTER.

33 S 6. Subdivision 9 of section 2852 of the education law, as amended by
34 section 2 of part D-2 of chapter 57 of the laws of 2007, is amended to
35 read as follows:

36 9. The total number of charters issued pursuant to this article shall
37 not exceed [two] FOUR hundred SIXTY. [One] TWO hundred THIRTY of such
38 charters shall be issue on the recommendation of the charter entity
39 described in paragraph (b) of subdivision three of section twenty-eight
40 hundred fifty-one of this article, and [one] TWO hundred THIRTY of such
41 charters shall be issued on the recommendation of the other charter
42 entities set forth in subdivision three of section twenty-eight hundred
43 fifty-one of this article, provided that up to [fifty] ONE HUNDRED
44 FIFTEEN of the additional charters authorized to be issued by the chap-
45 ter of the laws of two thousand [seven] TEN which amended this subdivi-
46 sion [effective July first, two thousand seven] shall be reserved for a
47 city school district of a city having a population of one million or
48 more. The failure of any body to issue the regulations authorized pursu-
49 ant to this article shall not [effect] AFFECT the authority of a charter
50 entity to propose a charter to the board of regents or the board of
51 regents' authority to grant such charter. A conversion of an existing
52 public school to a charter school or the renewal or extension of a char-
53 ter shall not be counted toward the numerical limits established by this
54 subdivision. UPON REVOCATION OR TERMINATION OF A CHARTER, SUCH CHARTER
55 SHALL NO LONGER COUNT TOWARD THE NUMERICAL LIMITS ESTABLISHED BY THIS
56 SUBDIVISION.

1 S 7. Paragraph (a) of subdivision 1 of section 2853 of the education
2 law, as added by chapter 4 of the laws of 1998, is amended to read as
3 follows:

4 (a) Upon the approval of a charter by the board of regents, the board
5 of regents shall incorporate the charter school as an education corpo-
6 ration for a term not to exceed five SCHOOL years IN WHICH INSTRUCTION
7 IS PROVIDED TO PUPILS, PLUS THE PERIOD COMMENCING WITH THE EFFECTIVE
8 DATE OF THE CHARTER AND ENDING WITH THE OPENING OF THE SCHOOL FOR
9 INSTRUCTION. Such certificate of incorporation shall not modify or
10 limit any terms of the charter approved by the board of regents. Upon
11 approval of an application to renew a charter, the board of regents
12 shall extend the certificate of incorporation for a term not to exceed
13 five SCHOOL years, PLUS THE PERIOD, IF ANY, COMMENCING WITH THE EFFEC-
14 TIVE DATE OF THE RENEWAL CHARTER AND ENDING WITH THE FIRST DAY OF THE
15 FIRST FULL SCHOOL YEAR IN WHICH INSTRUCTION IS PROVIDED UNDER THE
16 RENEWAL. Upon termination or nonrenewal of the charter of a charter
17 school pursuant to section twenty-eight hundred fifty-five of this arti-
18 cle, the certificate of incorporation of the charter school shall be
19 revoked by the board of regents pursuant to section two hundred nineteen
20 of this chapter, provided that compliance with the notice and hearing
21 requirements of such section twenty-eight hundred fifty-five of this
22 article shall be deemed to satisfy the notice and hearing requirements
23 of such section two hundred nineteen. It shall be the duty of the trus-
24 tees of the charter school to obtain federal tax-exempt status no later
25 than one year following approval of a charter school by the board of
26 regents. For purposes of this article, "certificate of incorporation"
27 shall mean the provisional charter issued by the board of regents to
28 form the charter school as an educational corporation pursuant to
29 sections two hundred sixteen and two hundred seventeen of this chapter.

30 S 8. Paragraph (b-1) of subdivision 1 of section 2853 of the education
31 law, as added by chapter 4 of the laws of 1998, is amended to read as
32 follows:

33 (b-1) An education corporation operating a charter school shall not be
34 authorized to operate more than one school [or] BUT MAY BE AUTHORIZED TO
35 house any grade at more than one site[, provided that: (A) a]. A CHAR-
36 TER SCHOOL HOUSING TWO OR MORE GRADES AT MORE THAN ONE SITE SHALL HAVE
37 EACH SUCH ADDITIONAL SITE DEEMED A CHARTER ISSUED FOR THE PURPOSES OF
38 SUBDIVISION NINE OF SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO OF THIS ARTI-
39 CLE. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, APPROVAL OF
40 REVISIONS TO A CHARTER OR CHARTERS TO AUTHORIZE AN EDUCATION CORPORATION
41 TO HOUSE ANY GRADE OR GRADES AT MORE THAN ONE SITE, INCLUDING THE MERGER
42 OR CONSOLIDATION OF EXISTING EDUCATION CORPORATIONS OPERATING CHARTER
43 SCHOOLS TO A SINGLE EDUCATION CORPORATION, SHALL BE MADE IN ACCORDANCE
44 WITH PARAGRAPH (A) OF SUBDIVISION SEVEN OF SECTION TWENTY-EIGHT HUNDRED
45 FIFTY-TWO OF THIS ARTICLE. UPON SUCH MERGER OR CONSOLIDATION, THE
46 SURVIVING OR CONSOLIDATED EDUCATION CORPORATION, PLUS ANY SUCH ADDI-
47 TIONAL SITES, SHALL CONTINUE TO EACH BE COUNTED AS A CHARTER ISSUED FOR
48 THE PURPOSES OF SUBDIVISION NINE OF SECTION TWENTY-EIGHT HUNDRED FIFTY-
49 TWO OF THIS ARTICLE. IF A CHARTER SCHOOL HAS EMPLOYEES WHO ARE MEMBERS
50 OF A COLLECTIVE BARGAINING ORGANIZATION PURSUANT TO ARTICLE FOURTEEN OF
51 THE CIVIL SERVICE LAW THAT MERGES OR CONSOLIDATES WITH A CHARTER SCHOOL
52 WHOSE EMPLOYEES ARE NOT MEMBERS OF A COLLECTIVE BARGAINING ORGANIZATION,
53 EMPLOYEES OF THE MERGED OR CONSOLIDATED CHARTER SCHOOL SHALL BE MEMBERS
54 OF THE COLLECTIVE BARGAINING ORGANIZATION THAT REPRESENTED LIKE POSI-
55 TIONS, IF ANY, PRIOR TO THE MERGER OR CONSOLIDATION. A charter school
56 may operate in more than one building at a single site; and [(B)] a

1 charter school which provides instruction to its students at different
2 locations for a portion of their school day shall be deemed to be oper-
3 ating at a single site; AND A CHARTER SCHOOL OPERATING AT MORE THAN ONE
4 SITE BUT WHICH HOUSES EACH GRADE AT A SINGLE SITE OR WHICH IS PROVIDING
5 SPECIAL EDUCATION PROGRAMS AND SERVICES TO ITS STUDENTS AT DIFFERENT
6 LOCATIONS PURSUANT TO PARAGRAPH (A) OF SUBDIVISION FOUR OF SECTION TWEN-
7 TY-EIGHT HUNDRED FIFTY-THREE OF THIS ARTICLE SHALL BE DEEMED TO BE OPER-
8 ATING AT A SINGLE SITE.

9 S 9. Paragraph (a) of subdivision 4 of section 2853 of the education
10 law, as amended by chapter 378 of the laws of 2007, is amended to read
11 as follows:

12 (a) For purposes of sections seven hundred one, seven hundred eleven,
13 seven hundred fifty-one and nine hundred twelve of this chapter, a char-
14 ter school shall be deemed a nonpublic school in the school district
15 within which the charter school is located. Special education programs
16 and services shall be provided to students with a disability attending a
17 charter school in accordance with the individualized education program
18 recommended by the committee or subcommittee on special education of the
19 student's school district of residence. The charter school may arrange
20 to have such services provided by such school district of residence or
21 by the charter school directly or by contract with another provider,
22 INCLUDING ANOTHER CHARTER SCHOOL. Where the charter school arranges to
23 have the school district of residence provide such special education
24 programs or services, such school district shall provide services in the
25 same manner as it serves students with disabilities in other public
26 schools in the school district, including the provision of supplementary
27 and related services on site to the same extent to which it has a policy
28 or practice of providing such services on the site of such other public
29 schools. CHARTER SCHOOLS MAY PROVIDE SUCH SERVICES ON SITE AT THE CHAR-
30 TER SCHOOL OR ARRANGE TO HAVE SUCH SERVICES PROVIDED BY CONTRACT AT
31 ANOTHER SITE INCLUDING BY ANOTHER CHARTER SCHOOL. WHERE A CHARTER SCHOOL
32 PROVIDES OR ARRANGES TO BE PROVIDED SUCH SERVICES AT ANOTHER SITE, IT
33 SHALL BE DEEMED TO BE OPERATING AT A SINGLE SITE PURSUANT TO PARAGRAPH
34 (B-1) OF SUBDIVISION ONE OF SECTION TWENTY-EIGHT HUNDRED FIFTY-THREE OF
35 THIS ARTICLE.

36 S 10. Paragraph (a) of subdivision 4 of section 2853 of the education
37 law, as added by chapter 4 of the laws of 1998, is amended to read as
38 follows:

39 (a) For purposes of sections seven hundred one, seven hundred eleven,
40 seven hundred fifty-one and nine hundred twelve of this chapter, a char-
41 ter school shall be deemed a nonpublic school in the school district
42 within which the charter school is located. Special education programs
43 and services shall be provided to students with a disability attending a
44 charter school in accordance with the individualized education program
45 recommended by the committee or subcommittee on special education of the
46 student's school district of residence. The charter school may arrange
47 to have such services provided by such school district of residence or
48 by the charter school directly or by contract with another provider,
49 INCLUDING ANOTHER CHARTER SCHOOL. CHARTER SCHOOLS MAY PROVIDE SUCH
50 SERVICES ON SITE AT THE CHARTER SCHOOL OR ARRANGE TO HAVE SUCH SERVICES
51 PROVIDED BY CONTRACT AT ANOTHER SITE INCLUDING BY ANOTHER CHARTER
52 SCHOOL. WHERE A CHARTER SCHOOL PROVIDES OR ARRANGES TO BE PROVIDED SUCH
53 SERVICES AT ANOTHER SITE, IT SHALL BE DEEMED TO BE OPERATING AT A SINGLE
54 SITE PURSUANT TO PARAGRAPH (B-1) OF SUBDIVISION ONE OF SECTION
55 TWENTY-EIGHT HUNDRED FIFTY-THREE OF THIS ARTICLE.

1 S 11. Subdivision 1 of section 2854 of the education law is amended by
2 adding a new paragraph (f) to read as follows:

3 (F) A CHARTER SCHOOL SHALL BE SUBJECT TO THE PROVISIONS OF SECTIONS
4 EIGHT HUNDRED, EIGHT HUNDRED ONE, EIGHT HUNDRED TWO, EIGHT HUNDRED
5 THREE, EIGHT HUNDRED FOUR, EIGHT HUNDRED FOUR-A, EIGHT HUNDRED FIVE,
6 EIGHT HUNDRED FIVE-A, EIGHT HUNDRED FIVE-B AND EIGHT HUNDRED SIX OF THE
7 GENERAL MUNICIPAL LAW TO THE SAME EXTENT SUCH SECTIONS APPLY TO SCHOOL
8 DISTRICTS.

9 S 11-a. Paragraph (c) of subdivision 1 of section 2854 of the educa-
10 tion law, as amended by chapter 265 of the laws of 2005, is amended to
11 read as follows:

12 (c) A charter school shall be subject to the financial audits, the
13 audit procedures, and the audit requirements set forth in the charter
14 and shall be subject to audits of the comptroller [as set forth in
15 section thirty-three of the general municipal law] OF THE STATE OF NEW
16 YORK AT HIS OR HER DISCRETION. Such procedures and standards shall be
17 consistent with generally accepted accounting and audit standards. Inde-
18 pendent fiscal audits shall be required at least once annually.

19 S 12. Paragraphs (a) and (b) of subdivision 2 of section 2854 of the
20 education law, as amended by section 5 of part D-2 of chapter 57 of the
21 laws of 2007, are amended, and a new paragraph (b-1) is added to read as
22 follows:

23 (a) A charter school shall be nonsectarian in its programs, admission
24 policies, employment practices, and all other operations and shall not
25 charge tuition or fees; provided that a charter school may require the
26 payment of fees on the same basis and to the same extent as other public
27 schools. A charter school shall not discriminate against any student,
28 employee or any other person on the basis of ethnicity, national origin,
29 gender, or disability or any other ground that would be unlawful if done
30 by a school. Admission of students shall not be limited on the basis of
31 intellectual ability, measures of achievement or aptitude, athletic
32 ability, disability, race, creed, gender, national origin, religion, or
33 ancestry; provided, however, that nothing in this article shall be
34 construed to prevent the establishment of a single-sex charter school or
35 a charter school designed to provide expanded learning opportunities for
36 students at-risk of academic failure OR PUPILS WHO ARE OTHERWISE IN NEED
37 OF SPECIAL ASSISTANCE AND SUPPORT, INCLUDING BUT NOT LIMITED TO, PUPILS
38 WITH DISABILITIES AND PUPILS WHO ARE ENGLISH LANGUAGE LEARNERS; and
39 provided, further, that the charter school shall demonstrate good faith
40 efforts to attract and retain a comparable or greater enrollment of
41 students with disabilities and [limited] English [proficient students]
42 LANGUAGE LEARNERS when compared to the enrollment figures for such
43 students in the school district in which the charter school is located.
44 A charter shall not be issued to any school that would be wholly or in
45 part under the control or direction of any religious denomination, or in
46 which any denominational tenet or doctrine would be taught.

47 (b) Any child who is qualified under the laws of this state for admis-
48 sion to a public school is qualified for admission to a charter school.
49 APPLICATIONS FOR ADMISSION TO A CHARTER SCHOOL SHALL BE SUBMITTED ON A
50 UNIFORM APPLICATION FORM CREATED BY THE DEPARTMENT AND SHALL BE MADE
51 AVAILABLE BY A CHARTER SCHOOL IN LANGUAGES PREDOMINANTLY SPOKEN IN THE
52 COMMUNITY IN WHICH SUCH CHARTER SCHOOL IS LOCATED. The school shall
53 enroll each eligible student who submits a timely application by the
54 first day of April each year, unless the number of applications exceeds
55 the capacity of the grade level or building. In such cases, students
56 shall be accepted from among applicants by a random selection process,

1 provided, however, that an enrollment preference shall be provided to
2 pupils returning to the charter school in the second or any subsequent
3 year of operation and pupils residing in the school district in which
4 the charter school is located, and siblings of pupils already enrolled
5 in the charter school; PROVIDED FURTHER, HOWEVER, THAT PUPILS WITH DISA-
6 BILITIES AND PUPILS WHO ARE ENGLISH LANGUAGE LEARNERS SHALL BE PROVIDED
7 ENROLLMENT PREFERENCE PURSUANT TO PARAGRAPH (B-1) OF THIS SUBDIVISION
8 AFTER PUPILS RETURNING TO THE CHARTER SCHOOL AND SIBLINGS OF PUPILS
9 ALREADY ENROLLED IN THE CHARTER SCHOOL. THE COMMISSIONER SHALL ESTABLISH
10 REGULATIONS TO REQUIRE THAT THE RANDOM SELECTION PROCESS CONDUCTED
11 PURSUANT TO THIS PARAGRAPH BE PERFORMED IN A TRANSPARENT AND EQUITABLE
12 MANNER AND TO REQUIRE THAT THE TIME AND PLACE OF THE RANDOM SELECTION
13 PROCESS BE PUBLICIZED IN A MANNER CONSISTENT WITH THE REQUIREMENTS OF
14 SECTION ONE HUNDRED FOUR OF THE PUBLIC OFFICERS LAW AND BE OPEN TO THE
15 PUBLIC. For the purposes of this paragraph and [paragraph] PARAGRAPHS
16 (a) AND (B-1) of this subdivision, the school district in which the
17 charter school is located shall mean, for the city school district of
18 the city of New York, the community district in which the charter school
19 is located EXCEPT THAT FOR CHARTER HIGH SCHOOLS THE SCHOOL DISTRICT IN
20 WHICH THE CHARTER SCHOOL IS LOCATED SHALL MEAN THE CITY SCHOOL DISTRICT
21 OF THE CITY OF NEW YORK. NOTWITHSTANDING THE PROVISIONS OF THIS SUBDIVI-
22 SION, CHARTER SCHOOLS SERVING STUDENTS IN KINDERGARTEN THROUGH EIGHTH
23 GRADE THAT ARE LOCATED IN THE CITY SCHOOL DISTRICT OF THE CITY OF NEW
24 YORK SHALL HAVE THE OPTION TO ADOPT THE ENROLLMENT PROCESS USED BY
25 ZONED, NON-CHARTER SCHOOLS LOCATED IN THE COMMUNITY SCHOOL DISTRICT AND
26 ZONE IN WHICH THE CHARTER SCHOOL IS LOCATED, PROVIDED THAT THE ENROLL-
27 MENT PROCESS MANDATES THAT THE SCHOOL SERVE ALL STUDENTS RESIDING IN THE
28 RELEVANT COMMUNITY SCHOOL DISTRICT AND ZONE UNTIL IT REACHES FULL CAPAC-
29 ITY AT WHICH POINT IT MAY EMPLOY THE SAME LOTTERY SYSTEM AS ZONED
30 SCHOOLS.

31 (B-1) IN THE EVENT THAT THE CHARTER ENTITY OR THE BOARD OF REGENTS,
32 BASED ON INFORMATION PROVIDED TO THE CHARTER ENTITY OR THE BOARD OF
33 REGENTS BY THE CHARTER SCHOOL REGARDING THE ENROLLMENT OF PUPILS WITH
34 DISABILITIES AND PUPILS WHO ARE ENGLISH LANGUAGE LEARNERS, HAS MADE A
35 DETERMINATION AT ANYTIME AFTER THE SCHOOL'S FIRST YEAR OF OPERATION THAT
36 THE CHARTER SCHOOL HAS NOT ATTRACTED A PERCENTAGE OF PUPILS FROM EACH OF
37 THOSE GROUPS IN EACH GRADE OF THE CHARTER SCHOOL IS AT LEAST FIFTY
38 PERCENT OF THE AVERAGE PERCENTAGE, AS CALCULATED BY THE SCHOOL DISTRICT
39 WHERE THE CHARTER SCHOOL IS LOCATED, OF PUPILS IN EACH GRADE FROM EACH
40 OF THOSE GROUPS IN ALL NON-CHARTER PUBLIC SCHOOLS IN THE SCHOOL
41 DISTRICT, OR, FOR ELEMENTARY AND MIDDLE SCHOOLS LOCATED WITHIN THE CITY
42 SCHOOL DISTRICT OF THE CITY OF NEW YORK, IN THE COMMUNITY SCHOOL
43 DISTRICT WHERE THE CHARTER IS LOCATED, STUDENTS SHALL BE ACCEPTED IN
44 SUBSEQUENT YEARS FROM AMONG APPLICANTS BY THE FOLLOWING PROCESS,
45 PROVIDED, HOWEVER, IN MAKING THAT DETERMINATION THE BOARD OF REGENTS AND
46 THE CHARTER ENTITY SHALL TAKE INTO ACCOUNT THE FACILITY CONSTRAINTS IF
47 ANY THAT AFFECT ENROLLMENT AND SERVICE OF PUPILS WITH DISABILITIES:

48 (I) FIRST, THE SCHOOL SHALL ACCEPT APPLICATIONS FOR EACH GRADE SUBMIT-
49 TED BY PUPILS WITH DISABILITIES AND PUPILS WHO ARE ENGLISH LANGUAGE
50 LEARNERS UNTIL THE PERCENTAGE OF STUDENTS FROM EACH OF THOSE GROUPS IN
51 EACH GRADE OF THE CHARTER SCHOOL IS AT LEAST SEVENTY-FIVE PERCENT OF THE
52 AVERAGE PERCENTAGE, AS CALCULATED BY THE SCHOOL DISTRICT WHERE THE CHAR-
53 TER SCHOOL IS LOCATED, OF STUDENTS IN EACH GRADE FROM EACH OF THOSE
54 GROUPS IN ALL NON-CHARTER PUBLIC SCHOOLS IN THE SCHOOL DISTRICT, OR, FOR
55 ELEMENTARY AND MIDDLE SCHOOLS LOCATED WITHIN THE CITY SCHOOL DISTRICT OF
56 THE CITY OF NEW YORK, IN THE COMMUNITY SCHOOL DISTRICT WHERE THE CHARTER

1 IS LOCATED, OR UNTIL ALL APPLICATIONS SUBMITTED BY STUDENTS WITH AN
2 INDIVIDUALIZED EDUCATION PROGRAM AND ENGLISH LANGUAGE LEARNERS HAVE BEEN
3 ACCEPTED. IF ACCEPTING ALL APPLICATIONS SUBMITTED BY PUPILS WITH DISA-
4 BILITIES AND PUPILS WHO ARE ENGLISH LANGUAGE LEARNERS WOULD CAUSE THE
5 PERCENTAGE OF SUCH STUDENTS IN ANY GRADE AT THE CHARTER SCHOOL TO EXCEED
6 SEVENTY-FIVE PERCENT OF THE AVERAGE PERCENTAGE OF PUPILS FROM EACH OF
7 THOSE GROUPS IN THE SAME GRADE AT THE RELEVANT NON-CHARTER PUBLIC
8 SCHOOLS, FOR EACH GRADE THE CHARTER SCHOOL SHALL ACCEPT APPLICANTS FROM
9 EACH OF THOSE GROUPS BY A RANDOM SELECTION PROCESS UNTIL THE PERCENTAGE
10 OF STUDENTS IN EACH GRADE FROM EACH OF THOSE GROUPS IS EQUAL TO THE
11 SEVENTY-FIVE PERCENT OF THE PERCENTAGE OF STUDENTS IN EACH GRADE FROM
12 EACH OF THOSE GROUPS IN THE RELEVANT NON-CHARTER PUBLIC SCHOOLS.

13 (II) ONCE ALL APPLICATIONS SUBMITTED BY PUPILS WITH DISABILITIES AND
14 PUPILS WHO ARE ENGLISH LANGUAGE LEARNERS HAVE BEEN ACCEPTED, OR ONCE THE
15 REQUIRED PERCENTAGE OF STUDENTS FROM THOSE GROUPS IN EACH GRADE HAS BEEN
16 REACHED AS SET FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE SCHOOL
17 SHALL ACCEPT STUDENTS FROM AMONG ALL UNACCEPTED APPLICATIONS INCLUDING
18 APPLICATIONS FROM PUPILS WITH DISABILITIES AND PUPILS WHO ARE ENGLISH
19 LANGUAGE LEARNERS BY RANDOM SELECTION PROCESS, PROVIDED, HOWEVER, THAT
20 AN ENROLLMENT PREFERENCE SHALL BE PROVIDED TO PUPILS RETURNING TO THE
21 CHARTER SCHOOL IN THE SECOND OR ANY SUBSEQUENT YEAR OF OPERATION,
22 SIBLINGS OF PUPILS ALREADY ENROLLED IN THE CHARTER SCHOOL AND PUPILS
23 RESIDING IN THE SCHOOL DISTRICT IN WHICH THE CHARTER SCHOOL IS LOCATED.

24 S 13. Subdivision 2 of section 2857 of the education law, as amended
25 by section 7 of part D-2 of chapter 57 of the laws of 2007, is amended
26 to read as follows:

27 2. Each charter school shall submit to the charter entity and to the
28 board of regents an annual report. Such report shall be issued no later
29 than the first day of August of each year for the preceding school year
30 AND SHALL BE MADE PUBLICLY AVAILABLE BY SUCH DATE AND SHALL BE POSTED ON
31 THE CHARTER SCHOOL'S AND CHARTER ENTITY'S WEBSITES. The annual report
32 shall be in such form as shall be prescribed by the commissioner and
33 shall include at least the following components:

34 (a) a charter school report card, which shall include measures of the
35 comparative academic and fiscal performance of the school, as prescribed
36 by the commissioner in regulations adopted for such purpose. Such meas-
37 ures shall include, but not be limited to, graduation rates, dropout
38 rates, performance of students on standardized tests, college entry
39 rates, total spending per pupil and administrative spending per pupil.
40 Such measures shall be presented in a format that is easily comparable
41 to similar public schools. In addition, the charter school shall ensure
42 that such information is easily accessible to the community INCLUDING
43 MAKING IT PUBLICLY AVAILABLE BY TRANSMITTING IT TO LOCAL NEWSPAPERS OF
44 GENERAL CIRCULATION AND MAKING IT AVAILABLE FOR DISTRIBUTION AT BOARD OF
45 TRUSTEE MEETINGS.

46 (b) discussion of the progress made towards achievement of the goals
47 set forth in the charter.

48 (c) a certified financial statement setting forth, by appropriate
49 categories, the revenues and expenditures for the preceding school year,
50 including a copy of the most recent independent fiscal audit of the
51 school.

52 (D) EFFORTS TAKEN BY THE CHARTER SCHOOL IN THE EXISTING SCHOOL YEAR,
53 AND A PLAN FOR EFFORTS TO BE TAKEN IN THE SUCCEEDING SCHOOL YEAR, TO
54 ATTRACT AND RETAIN HIGH-NEED STUDENTS, INCLUDING STUDENTS AT RISK OF
55 EDUCATIONAL FAILURE OR STUDENTS WHO ARE OTHERWISE IN NEED OF SPECIAL
56 ASSISTANCE AND SUPPORT.

1 S 14. Subdivision 3 of section 2857 of the education law is amended
2 by adding a new paragraph (a-1) to read as follows:

3 (A-1) A LIST INCLUDING THE NUMBER OF CHARTER SCHOOLS CLOSED DURING THE
4 PRECEDING YEAR, AND A BRIEF DESCRIPTION OF THE REASONS THEREFOR INCLUD-
5 ING, BUT NOT LIMITED TO, NON-RENEWAL OF THE CHARTER OR REVOCATION OF THE
6 CHARTER;

7 S 15. Section 2857 of the education law is amended by adding a new
8 subdivision 5 to read as follows:

9 5. THE BOARD OF REGENTS SHALL, ON AN ANNUAL BASIS, REVIEW AND MAKE
10 AVAILABLE TO SCHOOL DISTRICTS BEST EDUCATIONAL PRACTICES EMPLOYED BY
11 CHARTER SCHOOLS.

12 S 16. The education law is amended by adding a new section 211-e to
13 read as follows:

14 S 211-E. EDUCATIONAL MANAGEMENT ORGANIZATIONS. 1. EACH COMMON,
15 CENTRAL, CENTRAL HIGH SCHOOL, UNION FREE, EXCEPT SPECIAL ACT SCHOOL
16 DISTRICTS AS DEFINED IN SECTION FOUR THOUSAND ONE OF THIS CHAPTER, AND
17 CITY SCHOOL DISTRICT SHALL BE AUTHORIZED TO ENTER INTO CONTRACTS WITH
18 APPROVED EDUCATIONAL MANAGEMENT ORGANIZATIONS FOR THE PURPOSE OF MANAG-
19 ING INDIVIDUAL SCHOOLS WITHIN THE DISTRICT IN ORDER TO TURN AROUND THE
20 PERSISTENTLY LOWEST-ACHIEVING SCHOOLS. AUTHORITY OVER EMPLOYMENT DECI-
21 SIONS SHALL REMAIN THE SOLE RESPONSIBILITY OF THE EMPLOYING BOARD.
22 CONTRACTS SHALL BE SOLICITED AND AWARDED PURSUANT TO A COMPETITIVE
23 REQUEST FOR PROPOSALS PROCESS THAT SHALL BE DEVELOPED BY THE BOARD OF
24 EDUCATION IN CONSULTATION WITH THE SUPERINTENDENT OF SCHOOLS IN ACCORD-
25 ANCE WITH COMMISSIONER'S REGULATIONS PURSUANT TO SUBDIVISION TWO OF THIS
26 SECTION. THE REQUEST FOR PROPOSAL PROCESS SHALL INCLUDE MEASURES TO
27 ENHANCE THE ABILITY OF MINORITY AND WOMEN OWNED BUSINESS ENTERPRISES TO
28 COMPETE FOR CONTRACTS AND TO ENSURE THEIR MEANINGFUL PARTICIPATION IN
29 THE PROCESS. FOR THE PURPOSES OF THIS SECTION, THE TERM "BOARD OF EDUCA-
30 TION" SHALL MEAN THE TRUSTEE, TRUSTEES OR BOARD OF EDUCATION OF ANY
31 SCHOOL DISTRICT, EXCEPT IN THE CITY SCHOOL DISTRICT OF THE CITY OF NEW
32 YORK THE TERM "BOARD OF EDUCATION" SHALL MEAN THE PANEL FOR EDUCATION
33 POLICY AND THE "SUPERINTENDENT OF SCHOOLS" SHALL MEAN THE CHANCELLOR.

34 2. THE DEPARTMENT SHALL ESTABLISH A LIST OF APPROVED EDUCATIONAL
35 MANAGEMENT ORGANIZATIONS. IN ESTABLISHING SUCH LIST, THE COMMISSIONER
36 SHALL MAKE REASONABLE EFFORTS TO ENSURE MINORITY AND WOMEN OWNED BUSI-
37 NESS ENTERPRISES ARE INCLUDED FOR CONSIDERATION WHERE APPLICABLE. THE
38 COMMISSIONER SHALL BE AUTHORIZED TO PROMULGATE ANY REGULATIONS NECESSARY
39 TO IMPLEMENT THE PROVISIONS OF THIS SECTION INCLUDING REGULATIONS FOR
40 CONSISTENCY AND COMPLIANCE WITH ANY APPLICABLE FEDERAL OR STATE GUIDE-
41 LINES, INCLUDING THOSE CONTAINED WITHIN THE FEDERAL AMERICAN RECOVERY
42 AND REINVESTMENT ACT OF 2009.

43 3. NO CONTRACT ENTERED INTO WITH AN EDUCATIONAL MANAGEMENT ORGANIZA-
44 TION PURSUANT TO THIS SECTION SHALL BE CONSTRUED TO OVERRIDE OR AMEND
45 ANY COLLECTIVE BARGAINING AGREEMENT BETWEEN THE SCHOOL DISTRICT AND
46 COLLECTIVE BARGAINING ORGANIZATION. ANY CHANGES TO THE COLLECTIVE
47 BARGAINING AGREEMENT OF ANY BARGAINING UNIT DURING THE TERM OF THE
48 CONTRACT WITH THE EDUCATIONAL MANAGEMENT ORGANIZATION SHALL BE NEGOTI-
49 ATED PURSUANT TO ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW.

50 S 17. Severability clause. If any clause, sentence, paragraph, subdi-
51 vision, section or part of this act shall be adjudged by any court of
52 competent jurisdiction to be invalid, such judgment shall not affect,
53 impair, or invalidate the remainder thereof, but shall be confined in
54 its operation to the clause, sentence, paragraph, subdivision, section
55 or part thereof directly involved in the controversy in which such judg-
56 ment shall have been rendered. It is hereby declared to be the intent of

1 the legislature that this act would have been enacted even if such
2 invalid provisions had not been included herein.

3 S 18. This act shall take effect immediately; provided, however, that:

4 a. sections three, seven and eight of this act shall take effect July
5 1, 2010;

6 b. sections five, twelve, thirteen, fourteen and fifteen of this act
7 shall take effect January 1, 2011; and

8 c. the amendments to paragraph (a) of subdivision 4 of section 2853 of
9 the education law made by section nine of this act shall be subject to
10 the expiration and reversion of such paragraph pursuant to subdivision d
11 of section 27 of chapter 378 of the laws of 2007, as amended, when upon
12 such date the provisions of section ten of this act shall take effect.

13 PART B

14 Section 1. The education law is amended by adding a new section 3012-c
15 to read as follows:

16 S 3012-C. ANNUAL PROFESSIONAL PERFORMANCE REVIEW OF CLASSROOM TEACHERS
17 AND BUILDING PRINCIPALS. 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
18 RULE OR REGULATION TO THE CONTRARY, THE ANNUAL PROFESSIONAL PERFORMANCE
19 REVIEWS OF ALL CLASSROOM TEACHERS AND BUILDING PRINCIPALS EMPLOYED BY
20 SCHOOL DISTRICTS OR BOARDS OF COOPERATIVE EDUCATIONAL SERVICES SHALL BE
21 CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION. SUCH
22 PERFORMANCE REVIEWS WHICH ARE CONDUCTED ON OR AFTER JULY FIRST, TWO
23 THOUSAND ELEVEN, OR ON OR AFTER THE DATE SPECIFIED IN PARAGRAPH C OF
24 SUBDIVISION TWO OF THIS SECTION WHERE APPLICABLE, SHALL INCLUDE MEASURES
25 OF STUDENT ACHIEVEMENT AND BE CONDUCTED IN ACCORDANCE WITH THIS SECTION.
26 SUCH ANNUAL PROFESSIONAL PERFORMANCE REVIEWS SHALL BE A SIGNIFICANT
27 FACTOR FOR EMPLOYMENT DECISIONS INCLUDING BUT NOT LIMITED TO, PROMOTION,
28 RETENTION, TENURE DETERMINATION, TERMINATION, AND SUPPLEMENTAL COMPEN-
29 SATION, WHICH DECISIONS ARE TO BE MADE IN ACCORDANCE WITH LOCALLY DEVEL-
30 OPED PROCEDURES NEGOTIATED PURSUANT TO THE REQUIREMENTS OF ARTICLE FOUR-
31 TEEN OF THE CIVIL SERVICE LAW. SUCH PERFORMANCE REVIEWS SHALL ALSO BE A
32 SIGNIFICANT FACTOR IN TEACHER AND PRINCIPAL DEVELOPMENT, INCLUDING BUT
33 NOT LIMITED TO, COACHING, INDUCTION SUPPORT AND DIFFERENTIATED PROFES-
34 SIONAL DEVELOPMENT, WHICH ARE TO BE LOCALLY ESTABLISHED IN ACCORDANCE
35 WITH PROCEDURES NEGOTIATED PURSUANT TO THE REQUIREMENTS OF ARTICLE FOUR-
36 TEEN OF THE CIVIL SERVICE LAW.

37 2. A. THE ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED PURSUANT
38 TO THIS SECTION FOR CLASSROOM TEACHERS AND BUILDING PRINCIPALS SHALL
39 DIFFERENTIATE TEACHER AND PRINCIPAL EFFECTIVENESS USING THE FOLLOWING
40 QUALITY RATING CATEGORIES: HIGHLY EFFECTIVE, EFFECTIVE, DEVELOPING AND
41 INEFFECTIVE, WITH EXPLICIT MINIMUM AND MAXIMUM SCORING RANGES FOR EACH
42 CATEGORY, AS PRESCRIBED IN THE REGULATIONS OF THE COMMISSIONER. SUCH
43 ANNUAL PROFESSIONAL PERFORMANCE REVIEWS SHALL RESULT IN A SINGLE COMPOS-
44 ITE TEACHER OR PRINCIPAL EFFECTIVENESS SCORE, WHICH INCORPORATES MULTI-
45 PLE MEASURES OF EFFECTIVENESS RELATED TO THE CRITERIA INCLUDED IN THE
46 REGULATIONS OF THE COMMISSIONER. EXCEPT FOR THE STUDENT GROWTH MEASURES
47 PRESCRIBED IN PARAGRAPHS E, F AND G OF THIS SUBDIVISION, THE ELEMENTS
48 COMPRISING THE COMPOSITE EFFECTIVENESS SCORE SHALL BE LOCALLY DEVELOPED,
49 CONSISTENT WITH THE STANDARDS PRESCRIBED IN THE REGULATIONS OF THE
50 COMMISSIONER, THROUGH NEGOTIATIONS CONDUCTED, PURSUANT TO THE REQUIRE-
51 MENTS OF ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW.

52 B. ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED BY SCHOOL
53 DISTRICTS ON OR AFTER JULY FIRST, TWO THOUSAND ELEVEN OF CLASSROOM
54 TEACHERS OF COMMON BRANCH SUBJECTS OR ENGLISH LANGUAGE ARTS OR MATHEMAT-

1 ICS IN GRADES FOUR TO EIGHT AND ALL BUILDING PRINCIPALS OF SCHOOLS IN
2 WHICH SUCH TEACHERS ARE EMPLOYED SHALL BE CONDUCTED PURSUANT TO THIS
3 SUBDIVISION AND SHALL USE TWO THOUSAND TEN--TWO THOUSAND ELEVEN SCHOOL
4 YEAR STUDENT DATA AS THE BASELINE FOR THE INITIAL COMPUTATION OF THE
5 COMPOSITE TEACHER OR PRINCIPAL EFFECTIVENESS SCORE FOR SUCH CLASSROOM
6 TEACHERS AND PRINCIPALS.

7 C. ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED BY SCHOOL
8 DISTRICTS OR BOARDS OF COOPERATIVE EDUCATIONAL SERVICES ON OR AFTER JULY
9 FIRST, TWO THOUSAND TWELVE OF ALL CLASSROOM TEACHERS AND ALL BUILDING
10 PRINCIPALS SHALL BE CONDUCTED PURSUANT TO THIS SUBDIVISION AND SHALL USE
11 TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR STUDENT DATA AS THE
12 BASELINE FOR THE INITIAL COMPUTATION OF THE COMPOSITE TEACHER OR PRINCIPAL
13 EFFECTIVENESS SCORE FOR SUCH CLASSROOM TEACHERS AND PRINCIPALS. FOR
14 PURPOSES OF THIS SECTION, AN ADMINISTRATOR IN CHARGE OF AN INSTRUCTIONAL
15 PROGRAM OF A BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL BE DEEMED
16 TO BE A BUILDING PRINCIPAL.

17 D. PRIOR TO ANY EVALUATION BEING CONDUCTED IN ACCORDANCE WITH THIS
18 SECTION, EACH INDIVIDUAL WHO IS RESPONSIBLE FOR CONDUCTING AN EVALUATION
19 OF A TEACHER OR BUILDING PRINCIPAL SHALL RECEIVE APPROPRIATE TRAINING IN
20 ACCORDANCE WITH THE REGULATIONS OF THE COMMISSIONER.

21 E. FOR ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED IN ACCORDANCE
22 WITH PARAGRAPH B OF THIS SUBDIVISION IN THE TWO THOUSAND ELEVEN--TWO
23 THOUSAND TWELVE SCHOOL YEAR, FORTY PERCENT OF THE COMPOSITE SCORE OF
24 EFFECTIVENESS SHALL BE BASED ON STUDENT ACHIEVEMENT MEASURES AS FOLLOWS:
25 (I) TWENTY PERCENT OF THE EVALUATION SHALL BE BASED UPON STUDENT GROWTH
26 DATA ON STATE ASSESSMENTS AS PRESCRIBED BY THE COMMISSIONER OR A COMPA-
27 RABLE MEASURE OF STUDENT GROWTH IF SUCH GROWTH DATA IS NOT AVAILABLE;
28 AND (II) TWENTY PERCENT SHALL BE BASED ON OTHER LOCALLY SELECTED MEAS-
29 URES OF STUDENT ACHIEVEMENT THAT ARE DETERMINED TO BE RIGOROUS AND
30 COMPARABLE ACROSS CLASSROOMS IN ACCORDANCE WITH THE REGULATIONS OF THE
31 COMMISSIONER AND AS ARE DEVELOPED LOCALLY IN A MANNER CONSISTENT WITH
32 PROCEDURES NEGOTIATED PURSUANT TO THE REQUIREMENTS OF ARTICLE FOURTEEN
33 OF THE CIVIL SERVICE LAW.

34 F. FOR ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED IN ACCORDANCE
35 WITH PARAGRAPH C OF THIS SUBDIVISION IN ANY SCHOOL YEAR PRIOR TO THE
36 FIRST SCHOOL YEAR FOR WHICH THE BOARD OF REGENTS HAS APPROVED USE OF A
37 VALUE-ADDED GROWTH MODEL, BUT NOT EARLIER THAN THE TWO THOUSAND TWELVE-
38 -TWO THOUSAND THIRTEEN SCHOOL YEAR, FORTY PERCENT OF THE COMPOSITE SCORE
39 OF EFFECTIVENESS SHALL BE BASED ON STUDENT ACHIEVEMENT MEASURES AS
40 FOLLOWS: (I) TWENTY PERCENT OF THE EVALUATION SHALL BE BASED UPON
41 STUDENT GROWTH DATA ON STATE ASSESSMENTS AS PRESCRIBED BY THE COMMIS-
42 SIONER OR A COMPARABLE MEASURE OF STUDENT GROWTH IF SUCH GROWTH DATA IS
43 NOT AVAILABLE; AND (II) TWENTY PERCENT SHALL BE BASED ON OTHER LOCALLY
44 SELECTED MEASURES OF STUDENT ACHIEVEMENT THAT ARE DETERMINED TO BE
45 RIGOROUS AND COMPARABLE ACROSS CLASSROOMS IN ACCORDANCE WITH THE REGU-
46 LATIONS OF THE COMMISSIONER AND AS ARE DEVELOPED LOCALLY IN A MANNER
47 CONSISTENT WITH PROCEDURES NEGOTIATED PURSUANT TO THE REQUIREMENTS OF
48 ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW.

49 G. FOR ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED IN ACCORDANCE
50 WITH PARAGRAPH C OF THIS SUBDIVISION IN THE FIRST SCHOOL YEAR FOR WHICH
51 THE BOARD OF REGENTS HAS APPROVED USE OF A VALUE-ADDED GROWTH MODEL AND
52 THEREAFTER, FORTY PERCENT OF THE COMPOSITE SCORE OF EFFECTIVENESS SHALL
53 BE BASED ON STUDENT ACHIEVEMENT MEASURES AS FOLLOWS: (I) TWENTY-FIVE
54 PERCENT OF THE EVALUATION SHALL BE BASED UPON STUDENT GROWTH DATA ON
55 STATE ASSESSMENTS AS PRESCRIBED BY THE COMMISSIONER OR A COMPARABLE
56 MEASURE OF STUDENT GROWTH IF SUCH GROWTH DATA IS NOT AVAILABLE; AND (II)

1 FIFTEEN PERCENT SHALL BE BASED ON OTHER LOCALLY SELECTED MEASURES OF
2 STUDENT ACHIEVEMENT THAT ARE DETERMINED TO BE RIGOROUS AND COMPARABLE
3 ACROSS CLASSROOMS IN ACCORDANCE WITH THE REGULATIONS OF THE COMMISSIONER
4 AND AS ARE LOCALLY DEVELOPED IN A MANNER CONSISTENT WITH PROCEDURES
5 NEGOTIATED PURSUANT TO THE REQUIREMENTS OF ARTICLE FOURTEEN OF THE CIVIL
6 SERVICE LAW. THE DEPARTMENT SHALL DEVELOP THE VALUE-ADDED GROWTH MODEL
7 AND SHALL CONSULT WITH THE ADVISORY COMMITTEE ESTABLISHED PURSUANT TO
8 SUBDIVISION SEVEN OF THIS SECTION PRIOR TO RECOMMENDING THAT THE BOARD
9 OF REGENTS APPROVE ITS USE IN EVALUATIONS.

10 H. THE REMAINING PERCENT OF THE EVALUATIONS, RATINGS AND EFFECTIVENESS
11 SCORES SHALL BE LOCALLY DEVELOPED, CONSISTENT WITH THE STANDARDS
12 PRESCRIBED IN THE REGULATIONS OF THE COMMISSIONER, THROUGH NEGOTIATIONS
13 CONDUCTED PURSUANT TO ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW.

14 I. FOR PURPOSES OF THIS SECTION, STUDENT GROWTH MEANS THE CHANGE IN
15 STUDENT ACHIEVEMENT FOR AN INDIVIDUAL STUDENT BETWEEN TWO OR MORE POINTS
16 IN TIME.

17 3. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO EXCUSE SCHOOL
18 DISTRICTS OR BOARDS OF COOPERATIVE EDUCATIONAL SERVICES FROM COMPLYING
19 WITH THE STANDARDS SET FORTH IN THE REGULATIONS OF THE COMMISSIONER FOR
20 CONDUCTING ANNUAL PROFESSIONAL PERFORMANCE REVIEWS OF CLASSROOM TEACHERS
21 OR PRINCIPALS, INCLUDING BUT NOT LIMITED TO REQUIRED QUALITY RATING
22 CATEGORIES, IN CONDUCTING EVALUATIONS PRIOR TO JULY FIRST, TWO THOUSAND
23 ELEVEN, OR, FOR CLASSROOM TEACHERS OR PRINCIPALS SUBJECT TO PARAGRAPH C
24 OF SUBDIVISION TWO OF THIS SECTION, PRIOR TO JULY FIRST, TWO THOUSAND
25 TWELVE.

26 4. NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY,
27 UPON RATING A TEACHER OR A PRINCIPAL AS DEVELOPING OR INEFFECTIVE
28 THROUGH AN ANNUAL PROFESSIONAL PERFORMANCE REVIEW CONDUCTED PURSUANT TO
29 SUBDIVISION TWO OF THIS SECTION, THE SCHOOL DISTRICT OR BOARD OF COOPER-
30 ATIVE EDUCATIONAL SERVICES SHALL FORMULATE AND COMMENCE IMPLEMENTATION
31 OF A TEACHER OR PRINCIPAL IMPROVEMENT PLAN FOR SUCH TEACHER OR PRINCIPAL
32 AS SOON AS PRACTICABLE BUT IN NO CASE LATER THAN TEN DAYS AFTER THE DATE
33 ON WHICH TEACHERS ARE REQUIRED TO REPORT PRIOR TO THE OPENING OF CLASSES
34 FOR THE SCHOOL YEAR. SUCH IMPROVEMENT PLAN SHALL BE CONSISTENT WITH THE
35 REGULATIONS OF THE COMMISSIONER AND DEVELOPED LOCALLY THROUGH NEGOTI-
36 ATIONS CONDUCTED PURSUANT TO ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW.
37 SUCH IMPROVEMENT PLAN SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, IDEN-
38 TIFICATION OF NEEDED AREAS OF IMPROVEMENT, A TIMELINE FOR ACHIEVING
39 IMPROVEMENT, THE MANNER IN WHICH IMPROVEMENT WILL BE ASSESSED, AND,
40 WHERE APPROPRIATE, DIFFERENTIATED ACTIVITIES TO SUPPORT A TEACHER'S OR
41 PRINCIPAL'S IMPROVEMENT IN THOSE AREAS.

42 5. AN APPEALS PROCEDURE SHALL BE LOCALLY ESTABLISHED IN EACH SCHOOL
43 DISTRICT AND IN EACH BOARD OF COOPERATIVE EDUCATIONAL SERVICES BY WHICH
44 THE EVALUATED TEACHER OR PRINCIPAL MAY ONLY CHALLENGE THE SUBSTANCE OF
45 THE ANNUAL PROFESSIONAL PERFORMANCE REVIEW, THE SCHOOL DISTRICT'S OR
46 BOARD OF COOPERATIVE EDUCATIONAL SERVICES' ADHERENCE TO THE STANDARDS
47 AND METHODOLOGIES REQUIRED FOR SUCH REVIEWS, PURSUANT TO THIS SECTION,
48 THE ADHERENCE TO THE REGULATIONS OF THE COMMISSIONER AND COMPLIANCE WITH
49 ANY APPLICABLE LOCALLY NEGOTIATED PROCEDURES, AS WELL AS THE SCHOOL
50 DISTRICT'S OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES' ISSUANCE AND/OR
51 IMPLEMENTATION OF THE TERMS OF THE TEACHER OR PRINCIPAL IMPROVEMENT
52 PLAN, AS REQUIRED UNDER THIS SECTION. THE SPECIFICS OF THE APPEAL PROCE-
53 DURE SHALL BE LOCALLY ESTABLISHED THROUGH NEGOTIATIONS CONDUCTED PURSU-
54 ANT TO ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW. AN EVALUATION WHICH IS
55 THE SUBJECT OF AN APPEAL SHALL NOT BE SOUGHT TO BE OFFERED IN EVIDENCE
56 OR PLACED IN EVIDENCE IN ANY PROCEEDING CONDUCTED PURSUANT TO EITHER

1 SECTION THREE THOUSAND TWENTY-A OF THIS ARTICLE OR ANY LOCALLY NEGOTI-
2 ATED ALTERNATE DISCIPLINARY PROCEDURE, UNTIL THE APPEAL PROCESS IS
3 CONCLUDED.

4 6. FOR PURPOSES OF DISCIPLINARY PROCEEDINGS PURSUANT TO SECTIONS THREE
5 THOUSAND TWENTY AND THREE THOUSAND TWENTY-A OF THIS ARTICLE, A PATTERN
6 OF INEFFECTIVE TEACHING OR PERFORMANCE SHALL BE DEFINED TO MEAN TWO
7 CONSECUTIVE ANNUAL INEFFECTIVE RATINGS RECEIVED BY A CLASSROOM TEACHER
8 OR BUILDING PRINCIPAL PURSUANT TO ANNUAL PROFESSIONAL PERFORMANCE
9 REVIEWS CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

10 7. THE REGULATIONS ADOPTED PURSUANT TO THIS SECTION SHALL BE DEVELOPED
11 IN CONSULTATION WITH AN ADVISORY COMMITTEE CONSISTING OF REPRESENTATIVES
12 OF TEACHERS, PRINCIPALS, SUPERINTENDENTS OF SCHOOLS, SCHOOL BOARDS,
13 SCHOOL DISTRICT AND BOARD OF COOPERATIVE EDUCATIONAL SERVICES OFFICIALS
14 AND OTHER INTERESTED PARTIES. THE REGULATIONS SHALL ALSO TAKE INTO
15 ACCOUNT ANY (I) PROFESSIONAL TEACHING STANDARDS; (II) STANDARDS FOR
16 PROFESSIONAL CONTEXTS; AND (III) STANDARDS FOR A CONTINUUM OF SYSTEM
17 SUPPORT FOR TEACHERS AND PRINCIPALS DEVELOPED IN CONSULTATION WITH THE
18 ADVISORY COMMITTEE. REGULATIONS PROMULGATED PURSUANT TO THIS SECTION
19 SHALL BE EFFECTIVE NO LATER THAN JULY FIRST, TWO THOUSAND ELEVEN, FOR
20 IMPLEMENTATION IN THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL
21 YEAR.

22 8. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO
23 THE CONTRARY, ALL COLLECTIVE BARGAINING AGREEMENTS APPLICABLE TO CLASS-
24 ROOM TEACHERS OR BUILDING PRINCIPALS ENTERED INTO AFTER JULY FIRST, TWO
25 THOUSAND TEN SHALL BE CONSISTENT WITH REQUIREMENTS OF THIS SECTION.
26 NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ABROGATE ANY CONFLICTING
27 PROVISIONS OF ANY COLLECTIVE BARGAINING AGREEMENT IN EFFECT ON JULY
28 FIRST, TWO THOUSAND TEN DURING THE TERM OF SUCH AGREEMENT AND UNTIL THE
29 ENTRY INTO A SUCCESSOR COLLECTIVE BARGAINING AGREEMENT, PROVIDED THAT
30 NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, UPON EXPIRA-
31 TION OF SUCH TERM AND THE ENTRY INTO A SUCCESSOR COLLECTIVE BARGAINING
32 AGREEMENT THE PROVISIONS OF THIS SECTION SHALL APPLY. FURTHERMORE, NOTH-
33 ING IN THIS SECTION OR IN ANY RULE OR REGULATION PROMULGATED HEREUNDER
34 SHALL IN ANY WAY, ALTER, IMPAIR OR DIMINISH THE RIGHTS OF A LOCAL
35 COLLECTIVE BARGAINING REPRESENTATIVE TO NEGOTIATE EVALUATION PROCEDURES
36 IN ACCORDANCE WITH ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW WITH THE
37 SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES.

38 S 2. Subdivisions 1 and 3 and paragraph a of subdivision 4 of section
39 3020 of the education law, subdivision 1 as added by chapter 691 of the
40 laws of 1994, subdivision 3 as added by chapter 3 of the laws of 2000
41 and paragraph a of subdivision 4 as added by section 1 of part J of
42 chapter 93 of the laws of 2002, are amended to read as follows:

43 1. No person enjoying the benefits of tenure shall be disciplined or
44 removed during a term of employment except for just cause and in accord-
45 ance with the procedures specified in section three thousand twenty-a of
46 this article or in accordance with alternate disciplinary procedures
47 contained in a collective bargaining agreement covering his or her terms
48 and conditions of employment that was effective on or before September
49 first, nineteen hundred ninety-four and has been unaltered by renegoti-
50 ation, or in accordance with alternative disciplinary procedures
51 contained in a collective bargaining agreement covering his or her terms
52 and conditions of employment that becomes effective on or after Septem-
53 ber first, nineteen hundred ninety-four; provided, however, that any
54 such alternate disciplinary procedures contained in a collective
55 bargaining agreement that becomes effective on or after September first,
56 nineteen hundred ninety-four, must provide for the written election by

1 the employee of either the procedures specified in such section three
2 thousand twenty-a or the alternative disciplinary procedures contained
3 in the collective bargaining agreement and must result in a disposition
4 of the disciplinary charge within the amount of time allowed therefor
5 under such section three thousand twenty-a; AND PROVIDED FURTHER THAT
6 ANY ALTERNATE DISCIPLINARY PROCEDURES CONTAINED IN A COLLECTIVE BARGAIN-
7 ING AGREEMENT THAT BECOMES EFFECTIVE ON OR AFTER JULY FIRST, TWO THOU-
8 SAND TEN SHALL PROVIDE FOR AN EXPEDITED HEARING PROCESS BEFORE A SINGLE
9 HEARING OFFICER IN ACCORDANCE WITH SUBPARAGRAPH (I-A) OF PARAGRAPH C OF
10 SUBDIVISION THREE OF SECTION THREE THOUSAND TWENTY-A OF THIS ARTICLE IN
11 CASES IN WHICH CHARGES OF INCOMPETENCE ARE BROUGHT BASED SOLELY UPON AN
12 ALLEGATION OF A PATTERN OF INEFFECTIVE TEACHING OR PERFORMANCE AS
13 DEFINED IN SECTION THREE THOUSAND TWELVE-C OF THIS ARTICLE AND SHALL
14 PROVIDE THAT SUCH A PATTERN OF INEFFECTIVE TEACHING OR PERFORMANCE SHALL
15 CONSTITUTE VERY SIGNIFICANT EVIDENCE OF INCOMPETENCE WHICH MAY FORM THE
16 BASIS FOR JUST CAUSE REMOVAL.

17 3. Notwithstanding any inconsistent provision of law, the procedures
18 set forth in section three thousand twenty-a of this article and subdi-
19 vision seven of section twenty-five hundred ninety-j of this chapter may
20 be modified or replaced by agreements negotiated between the city school
21 district of the city of New York and any employee organization repres-
22 enting employees or titles that are or were covered by any memorandum of
23 agreement executed by such city school district and the council of
24 supervisors and administrators of the city of New York on or after
25 December first, nineteen hundred ninety-nine. Where such procedures are
26 so modified or replaced: (i) compliance with such modification or
27 replacement procedures shall satisfy any provision in this chapter that
28 requires compliance with section three thousand twenty-a, (ii) any
29 employee against whom charges have been preferred prior to the effective
30 date of such modification or replacement shall continue to be subject to
31 the provisions of such section as in effect on the date such charges
32 were preferred, (iii) the provisions of subdivisions one and two of this
33 section shall not apply to agreements negotiated pursuant to this subdi-
34 vision, and (iv) in accordance with paragraph (e) of subdivision one of
35 section two hundred nine-a of the civil service law, such modification
36 or replacement procedures contained in an agreement negotiated pursuant
37 to this subdivision shall continue as terms of such agreement after its
38 expiration until a new agreement is negotiated; PROVIDED THAT ANY ALTER-
39 NATE DISCIPLINARY PROCEDURES CONTAINED IN A COLLECTIVE BARGAINING AGREE-
40 MENT THAT BECOMES EFFECTIVE ON OR AFTER JULY FIRST, TWO THOUSAND TEN
41 SHALL PROVIDE FOR AN EXPEDITED HEARING PROCESS BEFORE A SINGLE HEARING
42 OFFICER IN ACCORDANCE WITH SUBPARAGRAPH (I-A) OF PARAGRAPH C OF SUBDIVI-
43 SION THREE OF SECTION THREE THOUSAND TWENTY-A OF THIS ARTICLE IN CASES
44 IN WHICH CHARGES OF INCOMPETENCE ARE BROUGHT AGAINST A BUILDING PRINCI-
45 PAL BASED SOLELY UPON AN ALLEGATION OF A PATTERN OF INEFFECTIVE TEACHING
46 OR PERFORMANCE AS DEFINED IN SECTION THREE THOUSAND TWELVE-C OF THIS
47 ARTICLE AND SHALL PROVIDE THAT SUCH A PATTERN OF INEFFECTIVE TEACHING OR
48 PERFORMANCE SHALL CONSTITUTE VERY SIGNIFICANT EVIDENCE OF INCOMPETENCE
49 WHICH MAY FORM THE BASIS FOR JUST CAUSE REMOVAL OF THE BUILDING PRINCI-
50 PAL. Notwithstanding any inconsistent provision of law, the commission-
51 er [of education] shall review any appeals authorized by such modifica-
52 tion or replacement procedures within fifteen days from receipt by such
53 commissioner of the record of prior proceedings in the matter subject to
54 appeal. Such review shall have preference over all other appeals or
55 proceedings pending before such commissioner.

1 a. Notwithstanding any inconsistent provision of law, the procedures
2 set forth in section three thousand twenty-a of this article and subdi-
3 vision seven of section twenty-five hundred ninety-j of this chapter may
4 be modified by agreements negotiated between the city school district of
5 the city of New York and any employee organization representing employ-
6 ees or titles that are or were covered by any memorandum of agreement
7 executed by such city school district and the united federation of
8 teachers on or after June tenth, two thousand two. Where such proce-
9 dures are so modified: (i) compliance with such modified procedures
10 shall satisfy any provision of this chapter that requires compliance
11 with section three thousand twenty-a of this article; (ii) any employee
12 against whom charges have been preferred prior to the effective date of
13 such modification shall continue to be subject to the provisions of such
14 section as in effect on the date such charges were preferred; (iii) the
15 provisions of subdivisions one and two of this section shall not apply
16 to agreements negotiated pursuant to this subdivision, except that no
17 person enjoying the benefits of tenure shall be disciplined or removed
18 during a term of employment except for just cause; and (iv) in accord-
19 ance with paragraph (e) of subdivision one of section two hundred nine-a
20 of the civil service law, such modified procedures contained in an
21 agreement negotiated pursuant to this subdivision shall continue as
22 terms of such agreement after its expiration until a new agreement is
23 negotiated; AND PROVIDED FURTHER THAT ANY ALTERNATE DISCIPLINARY PROCE-
24 DURES CONTAINED IN A COLLECTIVE BARGAINING AGREEMENT THAT BECOMES EFFEC-
25 TIVE ON OR AFTER JULY FIRST, TWO THOUSAND TEN SHALL PROVIDE FOR AN EXPE-
26 DITED HEARING PROCESS BEFORE A SINGLE HEARING OFFICER IN ACCORDANCE WITH
27 SUBPARAGRAPH (I-A) OF PARAGRAPH C OF SUBDIVISION THREE OF SECTION THREE
28 THOUSAND TWENTY-A OF THIS ARTICLE IN CASES IN WHICH CHARGES OF INCOMPE-
29 TENCE ARE BROUGHT BASED SOLELY UPON AN ALLEGATION OF A PATTERN OF INEF-
30 FECTIVE TEACHING OR PERFORMANCE AS DEFINED IN SECTION THREE THOUSAND
31 TWELVE-C OF THIS ARTICLE AND SHALL PROVIDE THAT SUCH A PATTERN OF INEF-
32 FECTIVE TEACHING OR PERFORMANCE SHALL CONSTITUTE VERY SIGNIFICANT
33 EVIDENCE OF INCOMPETENCE WHICH MAY FORM THE BASIS FOR JUST CAUSE
34 REMOVAL.

35 S 3. Paragraph (c) of subdivision 2 of section 3020-a of the education
36 law, as amended by chapter 691 of the laws of 1994, is amended to read
37 as follows:

38 (c) Within ten days of receipt of the statement of charges, the
39 employee shall notify the clerk or secretary of the employing board in
40 writing whether he or she desires a hearing on the charges and when the
41 charges concern pedagogical incompetence or issues involving pedagogical
42 judgment, his or her choice of either a single hearing officer or a
43 three member panel, PROVIDED THAT A THREE MEMBER PANEL SHALL NOT BE
44 AVAILABLE WHERE THE CHARGES CONCERN PEDAGOGICAL INCOMPETENCE BASED SOLE-
45 LY UPON A TEACHER'S OR PRINCIPAL'S PATTERN OF INEFFECTIVE TEACHING OR
46 PERFORMANCE AS DEFINED IN SECTION THREE THOUSAND TWELVE-C OF THIS ARTI-
47 CLE. All other charges shall be heard by a single hearing officer.

48 S 4. Paragraph a of subdivision 3 of section 3020-a of the education
49 law, as amended by chapter 691 of the laws of 1994, is amended to read
50 as follows:

51 a. Notice of hearing. Upon receipt of a request for a hearing in
52 accordance with subdivision two of this section, the commissioner [of
53 education] shall forthwith notify the American Arbitration Association
54 (hereinafter "association") of the need for a hearing and shall request
55 the association to provide to the commissioner forthwith a list of names
56 of persons chosen by the association from the association's panel of

1 labor arbitrators to potentially serve as hearing officers together with
2 relevant biographical information on each arbitrator. Upon receipt of
3 said list and biographical information, the commissioner [of education]
4 shall forthwith send a copy of both simultaneously to the employing
5 board and the employee. THE COMMISSIONER SHALL ALSO SIMULTANEOUSLY
6 NOTIFY BOTH THE EMPLOYING BOARD AND THE EMPLOYEE OF EACH POTENTIAL HEAR-
7 ING OFFICER'S RECORD IN THE LAST FIVE CASES OF COMMENCING AND COMPLETING
8 HEARINGS WITHIN THE TIME PERIODS PRESCRIBED IN THIS SECTION.

9 S 5. Paragraph c of subdivision 3 of section 3020-a of the education
10 law is amended by adding a new subparagraph (i-a) to read as follows:

11 (I-A)(A) WHERE CHARGES OF INCOMPETENCE ARE BROUGHT BASED SOLELY UPON A
12 PATTERN OF INEFFECTIVE TEACHING OR PERFORMANCE OF A CLASSROOM TEACHER OR
13 PRINCIPAL, AS DEFINED IN SECTION THREE THOUSAND TWELVE-C OF THIS ARTI-
14 CLE, THE HEARING SHALL BE CONDUCTED BEFORE AND BY A SINGLE HEARING OFFI-
15 CER IN AN EXPEDITED HEARING, WHICH SHALL COMMENCE WITHIN SEVEN DAYS
16 AFTER THE PRE-HEARING CONFERENCE AND SHALL BE COMPLETED WITHIN SIXTY
17 DAYS AFTER THE PRE-HEARING CONFERENCE. THE HEARING OFFICER SHALL ESTAB-
18 LISH A HEARING SCHEDULE AT THE PRE-HEARING CONFERENCE TO ENSURE THAT THE
19 EXPEDITED HEARING IS COMPLETED WITHIN THE REQUIRED TIMEFRAMES AND TO
20 ENSURE AN EQUITABLE DISTRIBUTION OF DAYS BETWEEN THE EMPLOYING BOARD AND
21 THE CHARGED EMPLOYEE. NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION
22 TO THE CONTRARY, NO ADJOURNMENTS MAY BE GRANTED THAT WOULD EXTEND THE
23 HEARING BEYOND SUCH SIXTY DAYS, EXCEPT AS AUTHORIZED IN THIS SUBPARA-
24 GRAPH. A HEARING OFFICER, UPON REQUEST, MAY GRANT A LIMITED AND TIME
25 SPECIFIC ADJOURNMENT THAT WOULD EXTEND THE HEARING BEYOND SUCH SIXTY
26 DAYS IF THE HEARING OFFICER DETERMINES THAT THE DELAY IS ATTRIBUTABLE TO
27 A CIRCUMSTANCE OR OCCURRENCE SUBSTANTIALLY BEYOND THE CONTROL OF THE
28 REQUESTING PARTY AND AN INJUSTICE WOULD RESULT IF THE ADJOURNMENT WERE
29 NOT GRANTED.

30 (B) SUCH CHARGES SHALL ALLEGE THAT THE EMPLOYING BOARD HAS DEVELOPED
31 AND SUBSTANTIALLY IMPLEMENTED A TEACHER OR PRINCIPAL IMPROVEMENT PLAN IN
32 ACCORDANCE WITH SUBDIVISION FOUR OF SECTION THREE THOUSAND TWELVE-C OF
33 THIS ARTICLE FOR THE EMPLOYEE FOLLOWING THE FIRST EVALUATION IN WHICH
34 THE EMPLOYEE WAS RATED INEFFECTIVE, AND THE IMMEDIATELY PRECEDING EVALU-
35 ATION IF THE EMPLOYEE WAS RATED DEVELOPING. NOTWITHSTANDING ANY OTHER
36 PROVISION OF LAW TO THE CONTRARY, A PATTERN OF INEFFECTIVE TEACHING OR
37 PERFORMANCE AS DEFINED IN SECTION THREE THOUSAND TWELVE-C OF THIS ARTI-
38 CLE SHALL CONSTITUTE VERY SIGNIFICANT EVIDENCE OF INCOMPETENCE FOR
39 PURPOSES OF THIS SECTION. NOTHING IN THIS SUBPARAGRAPH SHALL BE
40 CONSTRUED TO LIMIT THE DEFENSES WHICH THE EMPLOYEE MAY PLACE BEFORE THE
41 HEARING OFFICER IN CHALLENGING THE ALLEGATION OF A PATTERN OF INEFFECTIVE
42 TEACHING OR PERFORMANCE.

43 (C) THE COMMISSIONER SHALL ANNUALLY INFORM ALL HEARING OFFICERS WHO
44 HAVE HEARD CASES PURSUANT TO THIS SECTION DURING THE PRECEDING YEAR THAT
45 THE TIME PERIODS PRESCRIBED IN THIS SUBPARAGRAPH FOR CONDUCTING EXPE-
46 DITED HEARINGS ARE TO BE STRICTLY FOLLOWED. A RECORD OF CONTINUED FAIL-
47 URE TO COMMENCE AND COMPLETE EXPEDITED HEARINGS WITHIN THE TIME PERIODS
48 PRESCRIBED IN THIS SUBPARAGRAPH SHALL BE CONSIDERED GROUNDS FOR THE
49 COMMISSIONER TO EXCLUDE SUCH INDIVIDUAL FROM THE LIST OF POTENTIAL HEAR-
50 ING OFFICERS SENT TO THE EMPLOYING BOARD AND THE EMPLOYEE FOR SUCH EXPE-
51 DITED HEARINGS.

52 S 6. This act shall take effect July 1, 2010, provided, however, if
53 this act shall become a law after such date it shall take effect imme-
54 diately and shall be deemed to have been in full force and effect on and
55 after July 1, 2010.

1 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
2 sion, section or part of this act shall be adjudged by any court of
3 competent jurisdiction to be invalid, such judgment shall not affect,
4 impair, or invalidate the remainder thereof, but shall be confined in
5 its operation to the clause, sentence, paragraph, subdivision, section
6 or part thereof directly involved in the controversy in which such judg-
7 ment shall have been rendered. It is hereby declared to be the intent of
8 the legislature that this act would have been enacted even if such
9 invalid provisions had not been included herein.

10 S 3. This act shall take effect immediately provided, however, that
11 the applicable effective date of Parts A through B of this act shall be
12 as specifically set forth in the last section of such Parts.