

6738

2011-2012 Regular Sessions

I N A S S E M B L Y

March 28, 2011

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

AN ACT to amend the education law, in relation to empowering school boards to make decisions regarding employment based on performance, qualifications and the best interests of the students

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

1 Section 1. Subdivision 2 of section 1505-a of the education law, as
2 added by chapter 871 of the laws of 1982, is amended to read as follows:
3 2. [Any] NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,
4 ANY such teacher who is unable to obtain a teaching position in any such
5 school district to which territory is added, because the number of positions
6 needed are less than the number of teachers eligible to be considered
7 employees pursuant to subdivision one of this section, shall, in
8 all such school districts to which territory is added, be placed on a
9 preferred eligible list of candidates for appointment to a vacancy that
10 may thereafter occur in a position similar to the one such teacher
11 filled in such former school district[. The teachers on such a preferred
12 eligible list shall be appointed to such vacancies in such corresponding
13 or similar positions under the jurisdiction of the school district to
14 which territory is added in the order of their length of service in such
15 former school district, within seven years from the date of the dissolution
16 of such former school district] PURSUANT TO THE PROVISIONS OF
17 SUBPARAGRAPHS (I), (II), (III), (IV), (V) AND (VI) OF PARAGRAPH A AND
18 PARAGRAPH B OF SUBDIVISION THIRTEEN AND SUBDIVISION THIRTEEN-A OF
19 SECTION EIGHTEEN HUNDRED FOUR OF THIS TITLE.
20 S 2. Section 1804 of the education law is amended by adding two new
21 subdivisions 13 and 13-a to read as follows:
22 13. A. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,
23 WHENEVER A BOARD OF EDUCATION ABOLISHES A POSITION OR POSITIONS UNDER
24 THIS CHAPTER, THE SUPERINTENDENT FOR THE SCHOOL DISTRICT SHALL RECOMMEND

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

LBD09932-03-1

1 WHICH TEACHER OR TEACHERS SHOULD BE TERMINATED. SUCH RECOMMENDATION
2 SHALL BE BASED ON AN EVALUATION OF THE TEACHERS PERFORMANCE, QUALIFICA-
3 TIONS AND THE EDUCATIONAL NEEDS OF THE SCHOOL INCLUDING BUT NOT LIMITED
4 TO:

5 (I) ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED PURSUANT TO
6 SECTION THREE THOUSAND TWELVE-C OF THIS CHAPTER;

7 (II) ANALYSIS OF AVAILABLE STUDENT PERFORMANCE DATA AND OTHER RELEVANT
8 INFORMATION;

9 (III) ASSESSMENT OF THE TEACHER'S PERFORMANCE BY THE TEACHER'S BUILD-
10 ING PRINCIPAL OR OTHER BUILDING ADMINISTRATOR IN CHARGE OF THE SCHOOL OR
11 PROGRAM;

12 (IV) THE EDUCATIONAL QUALIFICATIONS OF THE TEACHER, THE TEACHER'S
13 EXPERIENCE AND DEMONSTRATED ABILITY AND ATTENDANCE;

14 (V) THE SCHOOL NEEDS FOR PARTICULAR LICENSE AREAS, OFFICE OR SCHOOL
15 NEEDS, INCLUDING CURRICULUM SPECIALIZED EDUCATION, DEGREES, LICENSES OR
16 AREAS OF EXPERTISE, THE LENGTH OF SATISFACTORY SERVICE AND ANY OTHER
17 FACTOR RELATED TO EXPERIENCE AND DEMONSTRATED ABILITY; AND

18 (VI) THE TEACHER'S SALARY SHALL NOT BE A FACTOR IN MAKING A LAY OFF
19 RECOMMENDATION.

20 THE BOARD OF EDUCATION SHALL EXERCISE ITS DISCRETION AND SHALL APPROVE
21 OR REJECT THE RECOMMENDATIONS OF THE SUPERINTENDENT SO AS TO MINIMIZE
22 THE ADVERSE IMPACT ON STUDENTS AND THE EDUCATIONAL STRENGTH OF THE
23 SCHOOL DISTRICT.

24 B. IF A TEACHING POSITION IS ABOLISHED, THE PERSON FILLING SUCH POSI-
25 TION AT THE TIME OF ITS ABOLISHMENT SHALL BE PLACED UPON A PREFERRED
26 ELIGIBLE LIST OF CANDIDATES FOR APPOINTMENT TO A VACANCY THAT THEN
27 EXISTS OR THAT MAY THEREAFTER OCCUR IN A POSITION SIMILAR TO THE ONE
28 WHICH SUCH PERSON FILLED WITHOUT REDUCTION IN SALARY OR INCREMENT,
29 PROVIDED THE RECORD OF SUCH PERSON HAS BEEN ONE OF FAITHFUL, COMPETENT
30 SERVICE IN THE OFFICE OR POSITION HE OR SHE HAS FILLED.

31 13-A. A. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,
32 WHENEVER A BOARD OF EDUCATION ABOLISHES AN OFFICE OR ADMINISTRATIVE
33 POSITIONS UNDER THIS CHAPTER THE PRINCIPAL FOR THE SCHOOL OR OTHER
34 BUILDING ADMINISTRATOR IN CHARGE OF THE SCHOOL OR PROGRAM SHALL RECOM-
35 MEND WHICH OFFICE OR ADMINISTRATIVE POSITIONS SHOULD BE TERMINATED.
36 SUCH RECOMMENDATIONS SHALL BE BASED UPON AN EVALUATION OF THE PERFORM-
37 ANCE AND QUALIFICATIONS OF THE INDIVIDUAL.

38 B. IF AN OFFICE OR ADMINISTRATIVE POSITION IS ABOLISHED, THE PERSON
39 FILLING SUCH POSITION AT THE TIME OF ITS ABOLISHMENT SHALL BE PLACED
40 UPON A PREFERRED ELIGIBLE LIST OF CANDIDATES FOR APPOINTMENT TO A VACAN-
41 CY THAT THEN EXISTS OR THAT MAY THEREAFTER OCCUR IN AN OFFICE OR POSI-
42 TION SIMILAR TO THE ONE WHICH SUCH PERSON FILLED WITHOUT REDUCTION IN
43 SALARY OR INCREMENT, PROVIDED THE RECORD OF SUCH PERSON HAS BEEN ONE OF
44 FAITHFUL, COMPETENT SERVICE IN THE OFFICE OR POSITIONS HE OR SHE HAS
45 FILLED.

46 S 3. Section 1917 of the education law, as added by chapter 732 of the
47 laws of 1981, is amended to read as follows:

48 S 1917. Employees; employment rights. [Teachers] NOTWITHSTANDING ANY
49 OTHER PROVISION OF LAW TO THE CONTRARY, TEACHERS and other staff members
50 of component districts, except the superintendent of schools, whose
51 services in the component districts are no longer needed because of
52 creation of a central high school district, shall be granted employment
53 rights in central high school districts in accordance with [length of
54 service in each tenure area] THE PROVISIONS OF SUBPARAGRAPHS (I), (II),
55 (III), (IV), (V) AND (VI) OF PARAGRAPH A OF SUBDIVISION THIRTEEN AND

1 PARAGRAPH A OF SUBDIVISION THIRTEEN-A OF SECTION EIGHTEEN HUNDRED FOUR
2 OF THIS TITLE.

3 S 4. Section 1917-a of the education law, as added by section 93 of
4 part L of chapter 405 of the laws of 1999, is amended to read as
5 follows:

6 S 1917-a. Employees; employment rights; creation of new central high
7 school district. 1. [Teachers] NOTWITHSTANDING ANY OTHER PROVISION OF
8 LAW TO THE CONTRARY, TEACHERS and other staff members of component
9 districts, except the superintendent of schools, whose services in the
10 component districts are no longer needed because of the creation of a
11 central high school district or the transference of students to an
12 existing central high school district, shall be granted employment
13 rights in central high school districts in accordance with the
14 provisions of this section.

15 2. As used in this section, a "component district" shall mean a
16 central, union free or common school district within the territory of
17 the central high school district, and a "central high school district"
18 shall mean a central high school district existing or created pursuant
19 to this article.

20 3. In any case in which a component district sends students to a
21 central high school district, each teacher and all other employees
22 previously employed in the education of such students by such component
23 district prior to the time that such component district sends its
24 students to a central high school district shall be considered employees
25 of such central high school district, with the same tenure status held
26 in such component district.

27 For purposes of this section, when a component district takes back
28 students that it sent to another district on a tuition basis and sends
29 such students to a central high school district, such central high
30 school district shall be deemed the "sending district" for purposes of
31 the rights and protections provided in section three thousand fourteen-c
32 of this chapter.

33 4. If the number of teaching and other positions needed to provide the
34 educational services required by such central high school district is
35 less than the number of teachers and other employees eligible to be
36 considered employees of such central high school district as provided by
37 subdivision three of this section, [the services of the teachers and
38 other employees having the least seniority in the component district
39 within the tenure area of the position shall be discontinued] DECISIONS
40 ABOUT THE RETENTION OF TEACHERS AND OTHER EMPLOYEES IN THE COMPONENT
41 DISTRICT SHALL BE MADE PURSUANT TO SUBPARAGRAPHS (I), (II), (III), (IV),
42 (V) AND (VI) OF PARAGRAPH A AND PARAGRAPH B OF SUBDIVISION THIRTEEN AND
43 SUBDIVISION THIRTEEN-A OF SECTION EIGHTEEN HUNDRED FOUR OF THIS TITLE
44 RESPECTIVELY. Such teachers and other employees NOT RETAINED AS EMPLOY-
45 EES shall be placed on a preferred eligible list of candidates for
46 appointment, PURSUANT TO PARAGRAPH B OF SUBDIVISION THIRTEEN AND PARA-
47 GRAPH B OF SUBDIVISION THIRTEEN-A OF SECTION EIGHTEEN HUNDRED FOUR OF
48 THIS TITLE, to a vacancy that may thereafter occur in an office or posi-
49 tion under the jurisdiction of the component district, the "receiving
50 district" as defined in section three thousand fourteen-c of this chap-
51 ter, from which a component district has taken back students, and the
52 central high school district similar to the one such teacher or other
53 employee filled in such component district. The teachers and other
54 employees on such preferred lists shall be reinstated or appointed to
55 such vacancies in such corresponding or similar positions under the
56 jurisdiction of the component district or the central high school

1 district [in the order of their length of service in such component
2 district, within seven years from the date of the abolition of such
3 office or position] PURSUANT TO THE CRITERIA OUTLINED IN SUBPARAGRAPHS
4 (I), (II), (III), (IV), (V) AND (VI) OF PARAGRAPH A OF SUBDIVISION THIR-
5 TEEN AND PARAGRAPH A OF SUBDIVISION THIRTEEN-A OF SECTION EIGHTEEN
6 HUNDRED FOUR OF THIS TITLE.

7 5. For any such teacher or other employee as described in subdivision
8 three of this section for salary, sick leave and any other purposes, the
9 length of service credited in such component district shall be credited
10 as employment time with such central high school district.

11 6. This section shall in no way be construed to limit the rights of
12 any of such teachers or other employees described in this section grant-
13 ed by any other provision of law.

14 S 5. Section 2510 of the education law, as added by chapter 762 of the
15 laws of 1950, subdivision 3 as amended by chapter 240 of the laws of
16 1992 and paragraph (a) of subdivision 3 as amended by chapter 236 of the
17 laws of 1993, is amended to read as follows:

18 S 2510. Abolition of office or position. 1. If the board of education
19 abolishes an office or position and creates another office or position
20 for the performance of duties similar to those performed in the office
21 or position abolished, the person filling such office or position at the
22 time of its abolishment shall be appointed to the office or position
23 thus created without reduction in salary or increment, provided the
24 record of such person has been one of faithful, competent service in the
25 office or position he OR SHE has filled.

26 2. [Whenever] NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE
27 CONTRARY, WHENEVER a board of education abolishes a position under this
28 chapter, [the services of the teacher having the least seniority in the
29 system within the tenure of the position abolished shall be discontin-
30 ued] TERMINATION DECISIONS SHALL BE MADE PURSUANT TO CRITERIA OUTLINED
31 IN SUBPARAGRAPHS (I), (II), (III), (IV), (V) AND (VI) OF PARAGRAPH A OF
32 SUBDIVISION THIRTEEN AND PARAGRAPH A OF SUBDIVISION THIRTEEN-A OF
33 SECTION EIGHTEEN HUNDRED FOUR OF THIS TITLE.

34 3. (a) If an office or position is abolished or if it is consolidated
35 with another position without creating a new position, the person fill-
36 ing such position at the time of its abolishment or consolidation shall
37 be placed upon a preferred eligible list of candidates for appointment
38 to a vacancy that then exists or that may thereafter occur in an office
39 or position similar to the one which such person filled [without
40 reduction in salary or increment, provided the record of such person has
41 been one of faithful, competent service in the office or position he has
42 filled. The persons on such preferred list shall be reinstated or
43 appointed to such vacancies in such corresponding or similar positions
44 in the order of their length of service in the system at any time within
45 seven years from the date of abolition or consolidation of such office
46 or position] PURSUANT TO THE PROVISIONS OF PARAGRAPH B OF SUBDIVISION
47 THIRTEEN AND PARAGRAPH B OF SUBDIVISION THIRTEEN-A OF SECTION EIGHTEEN
48 HUNDRED FOUR OF THIS TITLE. Notwithstanding any other provision of law
49 to the contrary, in the event that a member of the New York state teach-
50 ers' retirement system, who is receiving a disability retirement allow-
51 ance, shall have such disability retirement allowance rescinded, such
52 member shall be placed upon such preferred eligible list as of the
53 effective date of his or her disability retirement.

54 (b) The persons on such preferred list shall be reinstated, in accord-
55 ance with the terms of paragraph (a) of this subdivision, to such
56 substitute positions of five months or more in duration, as may from

1 time to time occur without losing their preferred status on such list.
2 Declination of such reinstatement shall not adversely affect the
3 persons' preferred eligibility status.

4 S 6. Section 3013 of the education law, as added by chapter 737 of the
5 laws of 1992, is amended to read as follows:

6 S 3013. Abolition of office or position. 1. [If] NOTWITHSTANDING ANY
7 OTHER PROVISION OF LAW TO THE CONTRARY, IF a trustee, board of trustees,
8 board of education or board of cooperative educational services abol-
9 ishes an office or position and creates another office or position [for
10 the performance of duties similar to those performed in the office or
11 position abolished, the person filling such office or position at the
12 time of its abolishment shall be appointed to the office or position
13 thus created without reduction in salary or increment, provided the
14 record of such person has been one of faithful, competent service in the
15 office or position he or she has filled], DECISIONS REGARDING EMPLOYEE
16 RETENTION SHALL BE MADE PURSUANT TO THE PROVISIONS OF SUBDIVISIONS THIR-
17 TEEN AND THIRTEEN-A OF SECTION EIGHTEEN HUNDRED FOUR OF THIS CHAPTER.

18 2. [Whenever a trustee, board of trustee, board of education or board
19 of cooperative educational services abolishes a position under this
20 chapter, the services of the teacher having the least seniority in the
21 system within the tenure of the position abolished shall be discontin-
22 ued.

23 3. (a)] If an office or position is abolished or if it is consolidated
24 with another position without creating a new position, the [person fill-
25 ing such position at the time of its abolishment or consolidation shall
26 be placed upon a preferred eligible list of candidates for appointment
27 to a vacancy that then exists or that may thereafter occur in an office
28 or position similar to the one which such person filled without
29 reduction in salary or increment, provided the record of such person has
30 been one of faithful, competent service in the office or position he or
31 she has filled. The persons on such preferred list shall be reinstated
32 or appointed to such vacancies in such corresponding or similar posi-
33 tions in the order of their length of service in the system at any time
34 within seven years from the date of abolition or consolidation of such
35 office or position] PROVISIONS OF PARAGRAPH B OF SUBDIVISIONS THIRTEEN
36 AND THIRTEEN-A OF SECTION EIGHTEEN HUNDRED FOUR OF THIS CHAPTER SHALL
37 CONTROL.

38 [(b)] 3. The persons on such preferred list shall be reinstated, in
39 accordance with the terms of [paragraph (a)] SUBDIVISION ONE of this
40 [subdivision] SECTION, to such substitute positions of five months or
41 more in duration, as may from time to time occur without losing their
42 preferred status on such list. Declination of such reinstatement shall
43 not adversely affect the persons' preferred eligibility status.

44 S 7. Section 3014-a of the education law, as amended by chapter 511 of
45 the laws of 1998, is amended to read as follows:

46 S 3014-a. Teachers' rights as a result of a board or boards of cooper-
47 ative educational services taking over a program formerly operated by a
48 school district or districts or by a county vocational education and
49 extension board. 1. In any case in which a board or boards of cooper-
50 ative educational services duly take over the operation of a program
51 formerly provided by a school district or school districts or by a coun-
52 ty vocational education and extension board, each teacher, teaching
53 assistant and teacher aide employed in such a program by such a school
54 district or such a county vocational education and extension board at
55 the time of such takeover by the board or boards of cooperative educa-
56 tional services, shall be considered an employee of such board or boards

1 of cooperative educational services with the same tenure or civil
2 service status he OR SHE maintained in such school district or in such
3 county vocational education and extension board.

4 2. [If] NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IF
5 the number of teaching positions needed to provide the services required
6 by such program by the board or boards of cooperative educational
7 services is less than the number of teachers, teaching assistants and
8 teacher aides eligible to be considered employees of such board or
9 boards of cooperative educational services as provided by subdivision
10 one of this section, [the services of the teachers, teaching assistants
11 and teacher aides having the least seniority in the school district or
12 school districts or county vocational education and extension board
13 whose programs are taken over by the board or boards of cooperative
14 educational services within the tenure area or civil service title of
15 the position shall be discontinued. Such teachers, teaching assistants
16 and teacher aides shall be placed on a preferred eligible list of candi-
17 dates for appointment to a vacancy that may thereafter occur in an
18 office or position under the jurisdiction of the board or boards of
19 cooperative educational services similar to the one such teacher, teach-
20 ing assistant and teacher aide filled in such school district or school
21 districts or such county vocational education and extension board. The
22 teachers, teaching assistants and teacher aides on such preferred list
23 shall be reinstated or appointed to such vacancies in such corresponding
24 or similar positions under the jurisdiction of the board or boards of
25 cooperative educational services in the order of their length of service
26 in such school district or school districts or in such county vocational
27 education and extension board, within seven years from the date of the
28 abolition of such office or position] DECISIONS REGARDING THE RETENTION
29 OF EMPLOYEES AND THE PROCEDURES FOR LAID OFF EMPLOYEES SHALL BE MADE
30 PURSUANT TO THE PROVISIONS OF SUBPARAGRAPHS (I), (II), (III), (IV), (V)
31 AND (VI) OF PARAGRAPH A AND PARAGRAPH B OF SUBDIVISION THIRTEEN AND
32 SUBDIVISION THIRTEEN-A OF SECTION EIGHTEEN HUNDRED FOUR OF THIS CHAPTER.

33 3. For any such teacher, teaching assistant and teacher aide as set
34 forth in subdivision one of this section for salary, sick leave and any
35 other purposes, the length of service credited in such school district
36 or in such county vocational education and extension board shall be
37 credited as employment time with such board or boards of cooperative
38 educational services.

39 4. This section shall in no way be construed to limit the rights of
40 any of such employees set forth in this section granted by any other
41 provision of law.

42 5. Program takeovers pursuant to this section shall be considered a
43 transfer pursuant to section seventy of the civil service law.

44 S 8. Section 3014-b of the education law, as amended by chapter 511 of
45 the laws of 1998, is amended to read as follows:

46 S 3014-b. Teachers' rights as a result of a school district taking
47 over a program formerly operated by a board of cooperative educational
48 services. 1. In any case in which a school district duly takes over the
49 operation of a program formerly provided by a board of cooperative
50 educational services, each teacher, teaching assistant and teacher aide
51 employed in such a program by such a board of cooperative educational
52 services at the time of such takeover by the school district shall be
53 considered an employee of such school district, with the same tenure or
54 civil service status he OR SHE maintained in such board of cooperative
55 educational services.

1 2. [If] NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IF
2 the number of teaching positions needed to provide the services required
3 by such program by the school district is less than the number of teach-
4 ers, teaching assistants and teacher aides eligible to be considered
5 employees of such school district as provided by subdivision one of this
6 section, [the services of the teachers, teaching assistants and teacher
7 aides having the least seniority in the board of cooperative educational
8 services whose programs are taken over by the school district within the
9 tenure area or civil service title of the position shall be discontin-
10 ued. Such teachers, teaching assistants and teacher aides shall be
11 placed on a preferred eligible list of candidates for appointment to a
12 vacancy that may thereafter occur in an office or position under the
13 jurisdiction of the school district similar to the one such teacher,
14 teaching assistant and teacher aide filled in such board of cooperative
15 educational services. The teachers, teaching assistants and teacher
16 aides on such preferred list shall be reinstated or appointed to such
17 vacancies in such corresponding or similar positions under the jurisdic-
18 tion of the school district in the order of their length of service in
19 such board of cooperative educational services, within seven years from
20 the date of the abolition of such office or position] DECISIONS REGARD-
21 ING THE RETENTION OF EMPLOYEES AND THE PROCEDURES FOR LAID OFF EMPLOYEES
22 SHALL BE MADE PURSUANT TO THE PROVISIONS OF SUBPARAGRAPHS (I), (II),
23 (III), (IV), (V) AND (VI) OF PARAGRAPH A AND PARAGRAPH B OF SUBDIVISION
24 THIRTEEN AND SUBDIVISION THIRTEEN-A OF SECTION EIGHTEEN HUNDRED FOUR OF
25 THIS CHAPTER.

26 3. For any such teacher, teaching assistant and teacher aide as set
27 forth in subdivision one of this section for salary, sick leave and any
28 other purposes, the length of service credited in such board of cooper-
29 ative educational services shall be credited as employment time with
30 such school district.

31 4. In the event that more than one school district duly takes over the
32 operation of a program formerly provided by a board of cooperative
33 educational services, then each teacher, teaching assistant and teacher
34 aide employed in such program by such board of cooperative educational
35 services at the time of such takeover by more than one school district,
36 shall select the particular school district in which he OR SHE shall be
37 considered an employee, with all of the rights and privileges provided
38 by the other provisions of this section. Such selection of the partic-
39 ular school district by such teacher, teaching assistant and teacher
40 aide is to be based upon [the seniority of each teacher, teaching
41 assistant and teacher aide in such board of cooperative educational
42 services, with the right of selection passing from such teachers, teach-
43 ing assistants and teacher aides with the most seniority to such teach-
44 ers, teaching assistants and teacher aides with least seniority. Any
45 such teacher, teaching assistant and teacher aide who is unable to
46 obtain a teaching position in any such school districts because the
47 number of positions needed to provide the services required in such
48 programs with such school districts are less than the number of teach-
49 ers, teaching assistants and teachers aides eligible to be considered
50 employees of such school districts, shall be placed on a preferred
51 eligible list in all such school districts in the method and with all of
52 the rights provided by the other provisions of this section] THE
53 PROVISIONS OF SUBPARAGRAPHS (I), (II), (III), (IV), (V) AND (VI) OF
54 PARAGRAPH A OF SUBDIVISION THIRTEEN AND PARAGRAPH B OF SUBDIVISION THIR-
55 TEEN-A OF SECTION EIGHTEEN HUNDRED FOUR OF THIS CHAPTER.

1 5. This section shall in no way be construed to limit the rights of
2 any of such employees set forth in this section granted by any other
3 provision of law.

4 S 9. Section 3014-c of the education law, as added by chapter 706 of
5 the laws of 1989, is amended to read as follows:

6 S 3014-c. Teachers' rights as a result of a school district taking
7 back tuition students. 1. As used in this section, a "sending district"
8 shall mean a school district which previously sent students to another
9 school district on a tuition basis pursuant to section two thousand
10 forty of this chapter, and a "receiving district" shall mean a school
11 district which provided the educational program for students from another
12 district on a tuition basis pursuant to section two thousand forty of
13 this chapter.

14 2. In any case in which a sending district assumes the education of
15 students formerly provided by a receiving district, each teacher
16 employed in the education of such students by such receiving district at
17 the time of such take back by the sending district shall be considered
18 an employee of such sending district, with the same tenure status he OR
19 SHE maintained in such receiving district.

20 3. [If] NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IF
21 the number of teaching positions needed to provide the educational
22 services required by such sending district is less than the number of
23 teachers eligible to be considered employees of such sending district as
24 provided by subdivision two of this section, [the services of the teachers
25 having the least seniority in the receiving district whose students
26 are taken back by the sending district within the tenure area of the
27 position shall be discontinued. Such teachers shall be placed on a
28 preferred eligible list of candidates for appointment to a vacancy that
29 may thereafter occur in an office or position under the jurisdiction of
30 the sending district and the receiving district similar to the one such
31 teacher filled in such receiving district. The teachers on such
32 preferred list shall be reinstated or appointed to such vacancies in
33 such corresponding or similar positions under the jurisdiction of the
34 sending district or the receiving district in the order of their length
35 of service in such receiving district, within seven years from the date
36 of the abolition of such office or position] DECISIONS REGARDING THE
37 RETENTION OF EMPLOYEES SHALL BE MADE PURSUANT TO THE PROVISIONS OF
38 SUBPARAGRAPHS (I), (II), (III), (IV), (V) AND (VI) OF PARAGRAPH A OF
39 SUBDIVISION THIRTEEN AND PARAGRAPH A OF SUBDIVISION THIRTEEN-A OF
40 SECTION EIGHTEEN HUNDRED FOUR OF THIS CHAPTER.

41 4. For any such teacher as described in subdivision two of this
42 section for salary, sick leave and any other purposes, the length of
43 service credited in such receiving district shall be credited as employment
44 time with such sending district.

45 5. In the event that more than one sending district assumes the education
46 of students formerly provided by a receiving district, then each
47 teacher employed in the education of such students in such receiving
48 district at the time of such take back by more than one sending
49 district, shall select the particular sending district in which he OR
50 SHE shall be considered an employee, with all of the rights and privileges
51 provided by the other provisions of this section. [Such selection
52 of the particular sending district by such teacher is to be based upon
53 each teacher's seniority in such receiving district, with the right of
54 selection passing from such teachers with the most seniority to such
55 teachers with least seniority.] Any such teacher who is unable to obtain
56 a teaching position in any such sending district because the number of

positions needed to provide the services required with such sending district are less than the number of teachers eligible to be considered employees of such sending districts, shall be placed on a preferred eligible list in all such sending districts in the method and with all of the rights provided by the other provisions of this section.

6. This section shall in no way be construed to limit the rights of any of such teachers described in this section granted by any other provision of law.

S 10. Section 3014-d of the education law, as added by chapter 706 of the laws of 1989, is amended to read as follows:

S 3014-d. Teachers' rights as a result of a school district sending students to another district on a tuition basis pursuant to section two thousand forty of this chapter. 1. As used in this section, a "sending district" shall mean a school district which sends students to another school district on a tuition basis pursuant to section two thousand forty of this chapter, and a "receiving district" shall mean a school district which receives and provides the educational program for students from another district on a tuition basis pursuant to section two thousand forty of this chapter.

2. In any case in which a sending district sends such students to a receiving district, each teacher previously employed in the education of students by such sending district prior to the time that such sending district sends its students to a receiving district shall be considered an employee of such receiving district, with the same tenure status he OR SHE maintained in such sending district.

3. [If] NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IF the number of teaching positions needed to provide the educational services required by such receiving district is less than the number of teachers eligible to be considered employees of such receiving district as provided by subdivision two of this section, [the services of the teachers having the least seniority in the sending district within the tenure area of the position shall be discontinued. Such teachers shall be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in an office or position under the jurisdiction of the sending district and the receiving district similar to the one such teacher filled in such sending district. The teachers on such preferred list shall be reinstated or appointed to such vacancies in such corresponding or similar positions under the jurisdiction of the sending district or the receiving district in the order of their length of service in such sending district, within seven years from the date of the abolition of such office or position] DECISIONS REGARDING THE RETENTION OF EMPLOYEES SHALL BE MADE PURSUANT TO THE PROVISIONS OF SUBPARAGRAPHS (I), (II), (III), (IV), (V) AND (VI) OF PARAGRAPH A OF SUBDIVISION THIRTEEN AND PARAGRAPH A OF SUBDIVISION THIRTEEN-A OF SECTION EIGHTEEN HUNDRED FOUR OF THIS CHAPTER.

4. For any such teacher as described in subdivision two of this section for salary, sick leave and any other purposes, the length of service credited in such sending district shall be credited as employment time with such receiving district.

5. This section shall in no way be construed to limit the rights of any of such teachers described in this section granted by any other provision of law.

S 11. This act shall take effect immediately.