

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. DIAZ -- 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 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:

1 Section 1. Subdivision 1 and subparagraph (i) of paragraph b of subdi-
2 vision 3 of section 3020-a of the education law, as amended by chapter
3 691 of the laws of 1994, are amended to read as follows:
4 1. Filing of charges. All charges against a person enjoying the bene-
5 fits of tenure as provided in subdivision three of section one thousand
6 one hundred two, and sections two thousand five hundred nine, two thou-
7 sand five hundred seventy-three, [twenty-five hundred ninety-j,] three
8 thousand twelve and three thousand fourteen of this chapter shall be in
9 writing and filed with the clerk or secretary of the school district or
10 employing board during the period between the actual opening and closing
11 of the school year for which the employed is normally required to serve.
12 Except as provided in subdivision eight of section two thousand five
13 hundred seventy-three [and subdivision seven of section twenty-five
14 hundred ninety-j] of this chapter, no charges under this section shall
15 be brought more than three years after the occurrence of the alleged
16 incompetency or misconduct, except when the charge is of misconduct
17 constituting a crime when committed.
18 (i) Hearing officers. All hearings pursuant to this section shall be
19 conducted before and by a single hearing officer selected as provided
20 for in this section. A hearing officer shall not be eligible to serve as
21 such if he or she is a resident of the school district, [other than the
22 city of New York,] under the jurisdiction of the employing board, an
23 employee, agent or representative of the employing board or of any labor

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

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1 organization representing employees of such employing board, has served
2 as such agent or representative within two years of the date of the
3 scheduled hearing, or if he or she is then serving as a mediator or fact
4 finder in the same school district. Notwithstanding any other provision
5 of law, the hearing officer shall be compensated by the department with
6 the customary fee paid for service as an arbitrator under the auspices
7 of the association for each day of actual service plus necessary travel
8 and other reasonable expenses incurred in the performance of his or her
9 duties. All other expenses of the disciplinary proceedings shall be paid
10 in accordance with rules promulgated by the commissioner of education.

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

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

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

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

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

55 (D) THE UNEXCUSED FAILURE OF THE EMPLOYEE TO NOTIFY THE CLERK OR
56 SECRETARY OF HIS OR HER DESIRE FOR A HEARING WITHIN TEN DAYS OF THE

1 RECEIPT OF CHARGES SHALL BE DEEMED A WAIVER OF THE RIGHT TO A HEARING.
2 WHERE AN EMPLOYEE REQUESTS A HEARING IN THE MANNER PROVIDED FOR BY THIS
3 SECTION, THE CLERK OR SECRETARY OF THE BOARD SHALL, WITHIN THREE WORKING
4 DAYS OF RECEIPT OF THE EMPLOYEE'S NOTICE OR REQUEST FOR A HEARING, NOTI-
5 FY THE COMMISSIONER OF THE NEED FOR A HEARING. IF THE EMPLOYEE WAIVES
6 HIS OR HER RIGHT TO A HEARING THE EMPLOYING BOARD SHALL PROCEED, WITHIN
7 FIFTEEN DAYS, BY A VOTE OF A MAJORITY OF ALL MEMBERS OF SUCH BOARD, TO
8 DETERMINE THE CASE AND FIX THE PENALTY, IF ANY, TO BE IMPOSED IN ACCORD-
9 ANCE WITH SUBDIVISION FOUR OF THIS SECTION.

10 3. HEARINGS. (A) NOTICE OF HEARING. UPON RECEIPT OF A REQUEST FOR A
11 HEARING IN ACCORDANCE WITH SUBDIVISION TWO OF THIS SECTION, THE COMMIS-
12 SIONER SHALL REFER ALL SUCH HEARINGS TO THE NEW YORK CITY OFFICE OF
13 ADMINISTRATIVE TRIALS AND HEARINGS.

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

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

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

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

32 (A) ISSUE SUBPOENAS;

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

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

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

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

1 (VI) DURING THE PRE-HEARING CONFERENCE, THE ADMINISTRATIVE LAW JUDGE
2 SHALL DETERMINE THE REASONABLE AMOUNT OF TIME NECESSARY FOR A FINAL
3 HEARING ON THE CHARGE OR CHARGES AND SHALL SCHEDULE THE TIME OR TIMES
4 AND DATE OR DATES FOR THE FINAL HEARING. IN THE EVENT THAT THE ADMINIS-
5 TRATIVE LAW JUDGE DETERMINES THAT THE NATURE OF THE CASE REQUIRES THE
6 FINAL HEARING TO LAST MORE THAN ONE DAY, THE DAYS THAT ARE SCHEDULED FOR
7 THE FINAL HEARING SHALL BE CONSECUTIVE. THE DAY OR DAYS SCHEDULED FOR
8 THE FINAL HEARING SHALL NOT BE POSTPONED EXCEPT UPON THE REQUEST OF A
9 PARTY AND THEN ONLY FOR GOOD CAUSE SHOWN AS DETERMINED BY THE ADMINIS-
10 TRATIVE LAW JUDGE. IN ALL CASES, THE FINAL HEARING SHALL BE COMPLETED NO
11 LATER THAN THIRTY DAYS AFTER THE PRE-HEARING CONFERENCE UNLESS THE
12 ADMINISTRATIVE LAW JUDGE DETERMINES THAT EXTRAORDINARY CIRCUMSTANCES
13 WARRANT A LIMITED EXTENSION.

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

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

49 (C) THE ADMINISTRATIVE LAW JUDGE SHALL INDICATE IN THE DECISION WHETH-
50 ER ANY OF THE CHARGES BROUGHT BY THE EMPLOYING BOARD WERE FRIVOLOUS AS
51 DEFINED IN SECTION EIGHTY-THREE HUNDRED THREE-A OF THE CIVIL PRACTICE
52 LAW AND RULES. IF THE ADMINISTRATIVE LAW JUDGE FINDS THAT ALL OF THE
53 CHARGES BROUGHT AGAINST THE EMPLOYEE WERE FRIVOLOUS, THE ADMINISTRATIVE
54 LAW JUDGE SHALL ORDER THE EMPLOYING BOARD TO REIMBURSE THE STATE EDUCA-
55 TION DEPARTMENT THE REASONABLE COSTS SAID DEPARTMENT INCURRED AS A
56 RESULT OF THE PROCEEDING AND TO REIMBURSE THE EMPLOYEE THE REASONABLE

1 COSTS, INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS' FEES, THE
2 EMPLOYEE INCURRED IN DEFENDING THE CHARGES. IF THE ADMINISTRATIVE LAW
3 JUDGE FINDS THAT SOME BUT NOT ALL OF THE CHARGES BROUGHT AGAINST THE
4 EMPLOYEE WERE FRIVOLOUS, THE ADMINISTRATIVE LAW JUDGE SHALL ORDER THE
5 EMPLOYING BOARD TO REIMBURSE THE DEPARTMENT A PORTION, IN THE DISCRETION
6 OF THE ADMINISTRATIVE LAW JUDGE, OF THE REASONABLE COSTS THE DEPARTMENT
7 INCURRED AS A RESULT OF THE PROCEEDING AND TO REIMBURSE THE EMPLOYEE A
8 PORTION, IN THE DISCRETION OF THE ADMINISTRATIVE LAW JUDGE, OF THE
9 REASONABLE COSTS, INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS'
10 FEES, THE EMPLOYEE INCURRED IN DEFENDING THE CHARGES.

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

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

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

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

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

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

39 38. To exercise all of the duties and responsibilities of the employ-
40 ing board as set forth in section [three thousand twenty-a] THREE THOU-
41 SAND TWENTY-B of this chapter with respect to any member of the teaching
42 or supervisory staff of schools under the jurisdiction of the community
43 district education councils. The chancellor shall exercise all such
44 duties and responsibilities for all community districts or may delegate
45 the exercise of all such duties and responsibilities to all of the
46 community superintendents of the city district.

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

49 38. to exercise all of the duties and responsibilities of the employ-
50 ing board as set forth in section [three thousand twenty-a] THREE THOU-
51 SAND TWENTY-B of this chapter with respect to any member of the teaching
52 or supervisory staff of schools under the jurisdiction of the community
53 boards. The chancellor shall exercise all such duties and responsibil-
54 ities for all community districts or may delegate the exercise of all
55 such duties and responsibilities to all of the community superintendents
56 of the city district.

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

4 38-a. To exercise all of the duties and responsibilities of the
5 employing board as set forth in section [three thousand twenty-a] THREE
6 THOUSAND TWENTY-B of this chapter with respect to any member of the
7 teaching or supervisory staff of schools which are not covered under
8 subdivision thirty-eight of this section. Provided, however that the
9 city board shall maintain jurisdiction over any consequence resulting
10 from an employee waiver of a hearing, as provided for in paragraph (d)
11 of subdivision two of section [three thousand twenty-a] THREE THOUSAND
12 TWENTY-B of this chapter.

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

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

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

24 (1) Unauthorized absence from duty or excessive lateness;

25 (2) Neglect of duty;

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

28 (4) Incompetent or inefficient service;

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

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

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

38 (d) Upon the service of a copy of the charges upon such employee, the
39 community superintendent may recommend to the chancellor the suspension
40 of any such employee. If the chancellor shall determine that the nature
41 of the charge requires the immediate removal of the employee from his
42 assigned duties, he may suspend such employee for a period not exceeding
43 ninety days pending hearing and determination of charges, provided
44 however, that such employee shall be entitled to receive full compen-
45 sation during the period of suspension. In case the employee is acquit-
46 ted, he shall be restored to his position.

47 8-a. Notwithstanding the provisions of subdivision eight of this
48 section, a community superintendent shall request the chancellor to
49 transfer a principal pursuant to subdivision twenty-five of section
50 twenty-five hundred ninety-h of this article, or to remove or otherwise
51 discipline the principal pursuant to section [three thousand twenty-a]
52 THREE THOUSAND TWENTY-B of this chapter, or to require the principal to
53 participate in training and staff development, or to take other actions
54 to promote student achievement and school performance, where appropri-
55 ate, consistent with the obligations of the superintendent pursuant to

1 section twenty-five hundred ninety-f and the provisions of section twen-
2 ty-five hundred ninety-i of this article.

3 S 9. The chancellor of the city district of the city of New York shall
4 refer all existing disciplinary hearings for teachers from such city
5 district to the New York City Office of Administrative Trials and Hear-
6 ings upon the effective date of this act.

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