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

10451

I N A S S E M B L Y

May 29, 2012

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

AN ACT to amend the education law, in relation to confidentiality of personnel records of classroom teachers and building principals and providing that annual performance reviews shall not be utilized for employment decisions until the two thousand fifteen -- two thousand sixteen school year

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

Section 1. Section 3012-c of the education law is amended by adding two new subdivisions 10 and 11 to read as follows:

10. NOTWITHSTANDING ANY PROVISIONS OF LAW TO THE CONTRARY, THE PERSONNEL RECORDS OF A CLASSROOM TEACHER OR BUILDING PRINCIPAL, INCLUDING BUT NOT LIMITED TO THE ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED PURSUANT TO THIS SECTION, COMPOSITE EFFECTIVENESS SCORES AND ALL INDIVIDUAL SUBCOMPONENTS, AND THE QUALITY RATING CATEGORY SHALL BE DEEMED CONFIDENTIAL AND SHALL NOT BE DISCLOSED, RELEASED OR SHOWN TO ANYONE, EXCEPT:

A. WITH THE WRITTEN CONSENT OF THE SUBJECT TEACHER OR PRINCIPAL;

B. TO THE BOARD OF EDUCATION OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES THAT EMPLOYS THE TEACHER OR PRINCIPAL AND THE APPROPRIATE ADMINISTRATORS DESIGNATED BY SUCH BOARD;

C. TO THE CHIEF LEGAL OFFICER OF SUCH BOARD OF EDUCATION OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES; OR

D. PURSUANT TO A SUBPOENA OR COURT ORDER.

11. A. THE ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED PURSUANT TO THIS SECTION SHALL NOT BE USED FOR ANY EMPLOYMENT DECISIONS, INCLUDING BUT NOT LIMITED TO, PROMOTION, RETENTION, TENURE DETERMINATION, TERMINATION AND SUPPLEMENTAL COMPENSATION UNTIL THE TWO THOUSAND FIFTEEN -- TWO THOUSAND SIXTEEN SCHOOL YEAR.

B. THE COMMISSIONER SHALL EVALUATE THE PERFORMANCE REVIEWS PERFORMED FOR THE TWO THOUSAND ELEVEN -- TWO THOUSAND TWELVE, TWO THOUSAND TWELVE -- TWO THOUSAND THIRTEEN AND TWO THOUSAND THIRTEEN -- TWO THOUSAND FOURTEEN SCHOOL YEARS TO DETERMINE THE EFFECTIVENESS OF THE EVALUATION

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

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PROCEDURES UNDER THIS SECTION. ON OR BEFORE JANUARY THIRTY-FIRST, TWO THOUSAND FIFTEEN, THE COMMISSIONER SHALL ISSUE A REPORT TO THE GOVERNOR AND TO THE LEGISLATURE ON:

(1) THE ACCURACY, RELIABILITY AND VALIDITY OF THE ANNUAL PROFESSIONAL PERFORMANCE REVIEWS, INCLUDING WHETHER SUCH REVIEW PROCESS: PROVIDES AN ACCURATE EVALUATION OF THE PERFORMANCE OF A TEACHER OR PRINCIPAL, ACCURATELY MEASURES THE QUALITY OF INSTRUCTION OR SUPERVISION PROVIDED BY A TEACHER OR PRINCIPAL, AND ACCURATELY MEASURES THE CORRELATION BETWEEN THE QUALITY OF INSTRUCTION OR SUPERVISION AND STUDENT ACHIEVEMENT;

(2) WHETHER OR HOW STUDENT ABSENCES AND OTHER FACTORS BEYOND THE CONTROL OF THE TEACHER OR PRINCIPAL ARE FACTORED INTO THE ANNUAL PROFESSIONAL PERFORMANCE REVIEW PROCESS;

(3) THE COST TO THE STATE AND SCHOOL DISTRICTS TO IMPLEMENT THE ANNUAL PROFESSIONAL PERFORMANCE REVIEW SYSTEM; AND

(4) RECOMMENDATIONS ON ANY CHANGES TO THE CURRENT LAW TO ENSURE A MORE ACCURATE, VALID AND RELIABLE EVALUATION PROCESS.

C. NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED TO ALTER OR DIMINISH THE AUTHORITY OF THE GOVERNING BODY OF A SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES TO GRANT OR DENY TENURE TO OR TERMINATE A TEACHER OR BUILDING PRINCIPAL FOR STATUTORILY AND CONSTITUTIONALLY PERMISSIBLE REASONS, OR TO TAKE DISCIPLINARY ACTION AGAINST A TEACHER OR PRINCIPAL PURSUANT TO SECTION THREE THOUSAND TWENTY-A OF THIS ARTICLE.

S 2. This act shall take effect immediately.