

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

3501--B

2011-2012 Regular Sessions

I N S E N A T E

February 23, 2011

Introduced by Sen. FLANAGAN -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to retaining quality teachers and teachers in shortage subject areas when teaching positions are eliminated in city school districts of cities having one million or more inhabitants; and to repeal certain provisions of such law relating thereto

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

1 Section 1. This act shall be known and may be cited as the "keep
2 effective and excellent professionals in the classroom act".
3 S 2. The section heading of section 2588 of the education law, as
4 added by chapter 521 of the laws of 1976, is amended to read as follows:
5 Seniority, retention and displacement rights in connection with aboli-
6 tion of positions in city school districts of cities having [more than]
7 one million inhabitants OR MORE.
8 S 3. Subdivision 3 of section 2588 of the education law is REPEALED
9 and a new subdivision 3 is added to read as follows:
10 3. (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION
11 TO THE CONTRARY, THE CITY SCHOOL DISTRICT AND ITS EMPLOYEES' COLLECTIVE
12 BARGAINING AGENTS SHALL ESTABLISH A PROCEDURE GOVERNING THE ABOLISHMENT
13 OR REDUCTION OF TEACHING OR SUPERVISORY POSITIONS CITYWIDE PURSUANT TO
14 THE REQUIREMENTS OF ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW. ANY SUCH
15 LOCALLY ESTABLISHED PROCESS SHALL NOT PERMIT AN EMPLOYEE'S LENGTH OF
16 SERVICE TO BE THE SOLE FACTOR IN ANY DECISION REGARDING WHICH POSITIONS
17 ARE TO BE ABOLISHED AND WHICH PERSONS OCCUPYING SUCH POSITIONS SHALL BE
18 LAID OFF; PROVIDED, HOWEVER, THAT ANY CONSIDERATION OF AN EMPLOYEE'S
19 LENGTH OF FAITHFUL AND COMPETENT SERVICE AS A FACTOR FOR THE ABOLISHMENT

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

LBD09505-12-1

1 OF POSITIONS OR PERSONS TO BE LAID OFF OCCUPYING SUCH POSITIONS MAY ONLY
2 BE CONSIDERED IN A MANNER BENEFICIAL TO AN EMPLOYEE AND THAT ANY SUCH
3 LOCALLY ESTABLISHED PROCESS SHALL NOT PERMIT AN EMPLOYEE'S SALARY TO BE
4 A FACTOR IN ANY DECISION REGARDING WHICH POSITIONS ARE TO BE ABOLISHED
5 AND WHICH PERSONS OCCUPYING SUCH POSITIONS SHALL BE LAID OFF; AND
6 PROVIDED FURTHER THAT ANY SUCH LOCALLY ESTABLISHED PROCESS MUST ENSURE
7 THAT HIGH QUALITY TEACHERS IN HIGH-NEED SCHOOLS ARE NOT LAID OFF AND
8 THAT HIGH-NEED SCHOOLS DO NOT BEAR A DISPROPORTIONATE SHARE OF WORKFORCE
9 REDUCTIONS PURSUANT TO A CITYWIDE LAYOFF, PROVIDED HOWEVER, NOTHING
10 SHALL PROHIBIT THE CITY SCHOOL DISTRICT FROM ABOLISHING ALL POSITIONS IN
11 A LICENSE AREA PURSUANT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH. FOR
12 PURPOSES OF THIS SECTION, A HIGH-NEED SCHOOL SHALL BE DEFINED AS A
13 SCHOOL IN WHICH AT LEAST NINETY PERCENT OF THE ENROLLED STUDENTS ARE
14 ELIGIBLE APPLICANTS FOR THE FREE AND REDUCED PRICE LUNCH PROGRAM. FOR
15 POSITIONS COVERED BY SECTION THREE THOUSAND TWELVE-C OF THIS CHAPTER,
16 ANY SUCH LOCALLY DEVELOPED PROCESS SHALL BE BASED ON THE ANNUAL PROFES-
17 SIONAL PERFORMANCE REVIEW FOR TEACHERS AND SUPERVISORS PURSUANT TO
18 SECTION THREE THOUSAND TWELVE-C OF THIS CHAPTER AND ITS IMPLEMENTING
19 REGULATIONS. UNTIL AND UNLESS SUCH A PROCESS HAS BEEN ESTABLISHED AT
20 LEAST NINETY DAYS BEFORE THE EFFECTIVE DATE OF ANY SUCH ABOLISHMENT OR
21 REDUCTION OF TEACHING OR SUPERVISORY POSITIONS CITYWIDE, THE FOLLOWING
22 SHALL APPLY:

23 (I) THE FOLLOWING TEACHERS OR SUPERVISORS SHALL BE LAID OFF PRIOR TO
24 ANY OTHER TEACHERS OR SUPERVISORS: (A) ANY TEACHER OR SUPERVISOR WHO
25 RECEIVED A RATING OF "UNSATISFACTORY" ON HIS OR HER ANNUAL PROFESSIONAL
26 PERFORMANCE REVIEW IN THE LAST FIVE SCHOOL YEARS OR "INEFFECTIVE" IN THE
27 EVENT A NEW ANNUAL PROFESSIONAL PERFORMANCE REVIEW HAS BEEN IMPLEMENTED
28 PURSUANT TO SECTION THREE THOUSAND TWELVE-C OF THIS CHAPTER; (B) ANY
29 TEACHER OR SUPERVISOR, IF THE PERSON IS A TENURED EMPLOYEE, WHO WITHIN
30 THE LAST FIVE YEARS HAS BEEN FINED OR SUSPENDED WITHOUT PAY AS A PENALTY
31 IMPOSED PURSUANT TO SECTION THREE THOUSAND TWENTY-A OF THIS CHAPTER OR
32 AS A RESULT OF A SETTLEMENT OF CHARGES BROUGHT PURSUANT TO SECTION THREE
33 THOUSAND TWENTY-A OF THIS CHAPTER; (C) ANY TEACHER OR SUPERVISOR NOT
34 CURRENTLY APPOINTED TO A REGULAR POSITION IN A SCHOOL FOR A PERIOD OF
35 SIX MONTHS OR MORE AS OF THE EFFECTIVE DATE OF ANY CITYWIDE LAYOFF
36 PURSUANT TO THIS SECTION; (D) ANY TEACHER OR SUPERVISOR CONVICTED OF A
37 QUALIFYING CRIMINAL OFFENSE IN THE PAST FIVE YEARS. "QUALIFYING CRIMINAL
38 OFFENSE" SHALL MEAN: (1) ANY FELONY, ANY CLASS A MISDEMEANOR, OR ANY
39 CLASS B MISDEMEANOR UNDER ARTICLE ONE HUNDRED TWENTY, ONE HUNDRED THIR-
40 TY, ONE HUNDRED THIRTY-FIVE, ONE HUNDRED FORTY, ONE HUNDRED FIFTY-FIVE,
41 TWO HUNDRED TWENTY, TWO HUNDRED THIRTY, TWO HUNDRED FORTY-FIVE, TWO
42 HUNDRED SIXTY, TWO HUNDRED SIXTY-THREE OR TWO HUNDRED SIXTY-FIVE OF THE
43 PENAL LAW, OR A FELONY OR MISDEMEANOR UNDER SECTIONS ELEVEN HUNDRED
44 NINETY-TWO AND ELEVEN HUNDRED NINETY-THREE OF THE VEHICLE AND TRAFFIC
45 LAW, OR (2) ANY OFFENSE IN ANY OTHER JURISDICTION FOR WHICH A SENTENCE
46 TO A TERM OF IMPRISONMENT OF ONE YEAR OR OF MORE THAN ONE YEAR WAS
47 AUTHORIZED AND IS AUTHORIZED IN THIS STATE IRRESPECTIVE OF WHETHER SUCH
48 SENTENCE WAS IMPOSED, OR (3) ANY OFFENSE IN ANY OTHER JURISDICTION THE
49 COMMISSION OF WHICH CONSTITUTES THE SUBSTANTIAL EQUIVALENT OF ANY
50 OFFENSE UNDER ARTICLE ONE HUNDRED TWENTY, ONE HUNDRED THIRTY, ONE
51 HUNDRED THIRTY-FIVE, ONE HUNDRED FORTY, ONE HUNDRED FIFTY-FIVE, TWO
52 HUNDRED TWENTY, TWO HUNDRED THIRTY, TWO HUNDRED FORTY-FIVE, TWO HUNDRED
53 SIXTY, TWO HUNDRED SIXTY-THREE OR TWO HUNDRED SIXTY-FIVE OF THE PENAL
54 LAW OR A FELONY OR MISDEMEANOR UNDER SECTIONS ELEVEN HUNDRED NINETY-TWO
55 AND ELEVEN HUNDRED NINETY-THREE OF THE VEHICLE AND TRAFFIC LAW; (E) ANY
56 TEACHER OR SUPERVISOR, IF THE PERSON IS A TENURED EMPLOYEE, WHO WITHIN

1 THE LAST FIVE YEARS HAS BEEN FINED AS A PENALTY IMPOSED PURSUANT TO
2 CHARGES RELATED TO CHRONIC ABSENTEEISM, CHRONIC LATENESS, OR IMPROPER
3 USE OR RECORDING OF LEAVE TIME OR AS A RESULT OF SETTLEMENT OF CHARGES
4 BROUGHT PURSUANT TO CHARGES RELATED TO CHRONIC ABSENTEEISM, CHRONIC
5 LATENESS OR IMPROPER USE OR RECORDING OF LEAVE TIME; (F) ANY TEACHER OR
6 SUPERVISOR WHO WITHIN THE LAST FIVE YEARS WAS THE SUBJECT OF AN INVESTI-
7 GATION WHERE ALLEGATIONS OF MISCONDUCT WERE SUBSTANTIATED BY THE CITY
8 SCHOOL DISTRICT'S SPECIAL COMMISSIONER OF INVESTIGATION, THE CITY SCHOOL
9 DISTRICT'S OFFICE OF SPECIAL INVESTIGATIONS OR THE CITY SCHOOL
10 DISTRICT'S OFFICE OF EQUAL OPPORTUNITY; (G) ANY TEACHER OR SUPERVISOR
11 WHO HAS FAILED TO FULFILL ALL REQUIREMENTS FOR CERTIFICATION FROM THE
12 DEPARTMENT AS OF AUGUST THIRTY-FIRST OF THE YEAR IN WHICH THERE IS A
13 CITYWIDE LAYOFF; (H) ANY TEACHER, FOR TWO YEARS OR MORE, RANKED IN THE
14 BOTTOM THIRTY PERCENT OF TEACHERS IN STUDENT TEST SCORES PROGRESS AS
15 MEASURED BY THE CITY SCHOOL DISTRICT'S VALUE-ADDED ASSESSMENT EXCEPT FOR
16 TEACHERS WHO WORK IN LICENSES SPECIFIC TO TEACHING CHILDREN WITH DISA-
17 BILITIES OR SPECIAL NEEDS. VALUE-ADDED ASSESSMENTS SHALL CONTROL FOR
18 FACTORS INCLUDING BUT NOT LIMITED TO THE STUDENT STATUS OR WHOLE CLASS
19 AVERAGE IN THE FOLLOWING CATEGORIES: PREVIOUS ACADEMIC OUTCOMES, FREE
20 AND REDUCED PRICE LUNCH STATUS, ENGLISH LANGUAGE LEARNER STATUS, SPECIAL
21 EDUCATION STATUS, PREVIOUS SUSPENSIONS AND ABSENCES, GRADE-LEVEL
22 RETENTION, SUMMER SCHOOL PARTICIPATION, YEARS ATTENDING THE CURRENT
23 SCHOOL, ETHNICITY, GENDER, AND CLASS SIZE; AND (I) TEACHERS OR SUPERVI-
24 SORS WHO ENTERED AGREEMENTS TO SERVE AN ADDITIONAL YEAR AS A PROBATIONER
25 PURSUANT TO SECTION TWENTY-FIVE HUNDRED SEVENTY-THREE OF THIS ARTICLE
26 FOR THE SCHOOL YEAR PRECEDING A CITYWIDE LAYOFF.

27 (II) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO
28 THE CONTRARY, IN THE CASE THAT THE NUMBER OF TEACHING OR SUPERVISORY
29 POSITIONS THAT ARE ABOLISHED, OR THE NUMBER OF TEACHING OR SUPERVISORY
30 EMPLOYEES THAT ARE LAID OFF PURSUANT TO SUBPARAGRAPH (I) OF THIS PARA-
31 GRAPH IS GREATER THAN THE NUMBER OF SUCH POSITIONS THAT MUST BE ABOL-
32 IShed OR REDUCED AS A RESULT OF A CITYWIDE LAYOFF, THEN THE DECISION
33 CONCERNING WHICH POSITIONS ARE TO BE ABOLISHED, AND WHICH PERSONS OCCU-
34 PYING SUCH POSITIONS ARE TO BE LAID OFF, SHALL BE MADE IN ACCORDANCE
35 WITH THIS SUBPARAGRAPH.

36 (1) THE FOLLOWING PROTOCOL SHALL BE USED UNTIL SUCH TIME THAT THE
37 TOTAL NUMBER OF EMPLOYEES IDENTIFIED IS EQUAL TO THE TOTAL NUMBER OF
38 TEACHING OR SUPERVISORY POSITIONS ABOLISHED. FOR PURPOSES OF THE PROTO-
39 COL, THE CATEGORIES LISTED AS CLAUSES (A), (B), (C), (D), (E), (F), (G),
40 (H) AND (I) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE RANKED ALPHA-
41 BETICALLY (A) THROUGH (I), PROVIDED THAT (A) SHALL BE RANKED THE HIGHEST
42 PRIORITY AND (I) SHALL BE RANKED THE LOWEST PRIORITY. THE PROTOCOL SHALL
43 BE ESTABLISHED AS FOLLOWS:

44 A. TEACHERS OR SUPERVISORS WHO FALL IN ALL NINE OF THE CATEGORIES
45 LISTED AS CLAUSES (A), (B), (C), (D), (E), (F), (G), (H) AND (I) OF
46 SUBPARAGRAPH (I) OF THIS PARAGRAPH;

47 B. TEACHERS OR SUPERVISORS WHO FALL WITHIN EIGHT OF THE CATEGORIES
48 LISTED AS CLAUSES (A), (B), (C), (D), (E), (F), (G), (H) AND (I) OF
49 SUBPARAGRAPH (I) OF THIS PARAGRAPH, IN ORDER OF THE COMBINED RANK PRIOR-
50 ITY OF THOSE EIGHT CATEGORIES;

51 C. TEACHERS OR SUPERVISORS WHO FALL WITHIN SEVEN OF THE CATEGORIES
52 LISTED AS CLAUSES (A), (B), (C), (D), (E), (F), (G), (H) AND (I) OF
53 SUBPARAGRAPH (I) OF THIS PARAGRAPH, IN ORDER OF THE COMBINED RANK PRIOR-
54 ITY OF THOSE SEVEN CATEGORIES;

55 D. TEACHERS OR SUPERVISORS WHO FALL WITHIN SIX OF THE CATEGORIES LIST-
56 ED AS CLAUSES (A), (B), (C), (D), (E), (F), (G), (H) AND (I) OF SUBPARA-

1 GRAPH (I) OF THIS PARAGRAPH, IN ORDER OF THE COMBINED RANK PRIORITY OF
2 THOSE SIX CATEGORIES;

3 E. TEACHERS OR SUPERVISORS WHO FALL WITHIN FIVE OF THE CATEGORIES
4 LISTED AS CLAUSES (A), (B), (C), (D), (E), (F), (G), (H) AND (I) OF
5 SUBPARAGRAPH (I) OF THIS PARAGRAPH, IN ORDER OF THE COMBINED RANK PRIOR-
6 ITY OF THOSE FIVE CATEGORIES;

7 F. TEACHERS OR SUPERVISORS WHO FALL WITHIN FOUR OF THE CATEGORIES
8 LISTED AS CLAUSES (A), (B), (C), (D), (E), (F), (G), (H) AND (I) OF
9 SUBPARAGRAPH (I) OF THIS PARAGRAPH, IN ORDER OF THE COMBINED RANK PRIOR-
10 ITY OF THOSE FOUR CATEGORIES;

11 G. TEACHERS OR SUPERVISORS WHO FALL WITHIN THREE OF THE CATEGORIES
12 LISTED AS CLAUSES (A), (B), (C), (D), (E), (F), (G), (H) AND (I) OF
13 SUBPARAGRAPH (I) OF THIS PARAGRAPH, IN ORDER OF THE COMBINED RANK PRIOR-
14 ITY OF THOSE THREE CATEGORIES;

15 H. TEACHERS OR SUPERVISORS WHO FALL WITHIN TWO OF THE CATEGORIES LIST-
16 ED AS CLAUSES (A), (B), (C), (D), (E), (F), (G), (H) AND (I) OF SUBPARA-
17 GRAPH (I) OF THIS PARAGRAPH, IN ORDER OF THE COMBINED RANK PRIORITY OF
18 THOSE TWO CATEGORIES;

19 I. TEACHERS OR SUPERVISORS WHO RECEIVED A RATING OF "UNSATISFACTORY"
20 IN ANY OF THE LAST FIVE SCHOOL YEARS ON THEIR ANNUAL PROFESSIONAL
21 PERFORMANCE REVIEW; PROVIDED, HOWEVER THAT IF FEWER LAYOFFS ARE REQUIRED
22 THAN THERE ARE PERSONS IN THIS CATEGORY, LAYOFFS SHALL BE DONE IN THE
23 FOLLOWING ORDER:

24 I. A TEACHER OR SUPERVISOR WITH THE HIGHEST NUMBER OF UNSATISFACTORY
25 RATINGS IN THE LAST FIVE YEARS; AND

26 II. A TEACHER OR SUPERVISOR WITH AN UNSATISFACTORY RATING RECEIVED IN
27 THE MOST RECENT YEAR OR YEARS;

28 J. ANY TEACHER OR SUPERVISOR, IF THE PERSON IS A TENURED EMPLOYEE, WHO
29 WITHIN THE LAST FIVE YEARS HAS BEEN FINED OR SUSPENDED WITHOUT PAY AS A
30 PENALTY IMPOSED PURSUANT TO SECTION THREE THOUSAND TWENTY-A OF THIS
31 CHAPTER OR AS A RESULT OF A SETTLEMENT OF CHARGES BROUGHT PURSUANT TO
32 SECTION THREE THOUSAND TWENTY-A OF THIS CHAPTER; PROVIDED, HOWEVER THAT
33 IF FEWER LAYOFFS ARE REQUIRED THAN THERE ARE PERSONS IN THIS CATEGORY
34 PERSONS SHALL BE LAID OFF IN ORDER OF THE MOST RECENT DISPOSITION;

35 K. ANY TEACHER OR SUPERVISOR WITH A CURRENT STATUS AS A TEACHER OR
36 SUPERVISOR NOT APPOINTED TO A PERMANENT POSITION IN A SCHOOL FOR A PERI-
37 OD OF SIX MONTHS OR MORE AS OF THE EFFECTIVE DATE OF ANY CITYWIDE LAYOFF
38 PURSUANT TO THIS SECTION; PROVIDED, HOWEVER THAT IF FEWER LAYOFFS ARE
39 REQUIRED THAN THERE ARE PERSONS IN THIS CATEGORY, LAYOFFS SHALL BE DONE
40 IN ORDER OF PERSONS WHO HAVE BEEN WITHOUT AN APPOINTED POSITION TO A
41 SCHOOL THE LONGEST PERIOD OF TIME;

42 L. ANY TEACHER OR SUPERVISOR CONVICTED OF A QUALIFYING CRIMINAL
43 OFFENSE IN THE PAST FIVE YEARS. "QUALIFYING CRIMINAL OFFENSE" SHALL
44 MEAN: (A) ANY FELONY, ANY CLASS A MISDEMEANOR, OR ANY CLASS B MISDEMEA-
45 NOR UNDER ARTICLE ONE HUNDRED TWENTY, ONE HUNDRED THIRTY, ONE HUNDRED
46 THIRTY-FIVE, ONE HUNDRED FORTY, ONE HUNDRED FIFTY-FIVE, TWO HUNDRED
47 TWENTY, TWO HUNDRED THIRTY, TWO HUNDRED FORTY-FIVE, TWO HUNDRED SIXTY,
48 TWO HUNDRED SIXTY-THREE OR TWO HUNDRED SIXTY-FIVE OF THE PENAL LAW OR A
49 FELONY OR MISDEMEANOR UNDER SECTIONS ELEVEN HUNDRED NINETY-TWO AND ELEV-
50 EN HUNDRED NINETY-THREE OF THE VEHICLE AND TRAFFIC LAW, OR (B) ANY
51 OFFENSE IN ANY OTHER JURISDICTION FOR WHICH A SENTENCE TO A TERM OF
52 IMPRISONMENT OF ONE YEAR OR OF MORE THAN ONE YEAR WAS AUTHORIZED AND IS
53 AUTHORIZED IN THIS STATE IRRESPECTIVE OF WHETHER SUCH SENTENCE WAS
54 IMPOSED, OR (C) ANY OFFENSE IN ANY OTHER JURISDICTION THE COMMISSION OF
55 WHICH CONSTITUTES THE SUBSTANTIAL EQUIVALENT OF ANY OFFENSE UNDER ARTI-
56 CLE ONE HUNDRED TWENTY, ONE HUNDRED THIRTY, ONE HUNDRED THIRTY-FIVE, ONE

1 HUNDRED FORTY, ONE HUNDRED FIFTY-FIVE, TWO HUNDRED TWENTY, TWO HUNDRED
2 THIRTY, TWO HUNDRED FORTY-FIVE, TWO HUNDRED SIXTY, TWO HUNDRED
3 SIXTY-THREE OR TWO HUNDRED SIXTY-FIVE OF THE PENAL LAW OR A FELONY OR
4 MISDEMEANOR UNDER SECTIONS ELEVEN HUNDRED NINETY-TWO AND ELEVEN HUNDRED
5 NINETY-THREE OF THE VEHICLE AND TRAFFIC LAW; PROVIDED, HOWEVER THAT IF
6 FEWER LAYOFFS ARE REQUIRED THAN THERE ARE PERSONS IN THIS CATEGORY,
7 LAYOFFS SHALL BE DONE IN THE FOLLOWING ORDER:

8 I. A TEACHER OR SUPERVISOR CONVICTED OF A FELONY IN THE LAST FIVE
9 YEARS; AND

10 II. A TEACHER OR SUPERVISOR CONVICTED OF A CLASS A MISDEMEANOR IN THE
11 LAST FIVE YEARS; AND

12 III. A TEACHER OR SUPERVISOR CONVICTED IN THE MOST RECENT YEAR OR
13 YEARS OF A CLASS B MISDEMEANOR UNDER ARTICLE ONE HUNDRED TWENTY, ONE
14 HUNDRED THIRTY, ONE HUNDRED THIRTY-FIVE, ONE HUNDRED FORTY, ONE HUNDRED
15 FIFTY-FIVE, TWO HUNDRED TWENTY, TWO HUNDRED THIRTY, TWO HUNDRED
16 FORTY-FIVE, TWO HUNDRED SIXTY, TWO HUNDRED SIXTY-THREE OR TWO HUNDRED
17 SIXTY-FIVE OF THE PENAL LAW OR A FELONY OR MISDEMEANOR UNDER SECTIONS
18 ELEVEN HUNDRED NINETY-TWO AND ELEVEN HUNDRED NINETY-THREE OF THE VEHICLE
19 AND TRAFFIC LAW;

20 M. ANY TEACHER OR SUPERVISOR WHO HAS RECEIVED A FINE AS A PENALTY OR
21 AS PART OF A STIPULATION IN SETTLEMENT OF CHARGES OF CHRONIC ABSENTEEISM
22 OR LATENESS, OR IMPROPER USE OR RECORDING OF LEAVE TIME; PROVIDED,
23 HOWEVER THAT IF FEWER LAYOFFS ARE REQUIRED THAN THERE ARE PEOPLE IN THIS
24 CATEGORY, LAYOFFS SHALL BE DONE IN ORDER OF THE MOST RECENT DISPOSITION;

25 N. ANY TEACHER OR SUPERVISOR WHO WITHIN THE LAST FIVE YEARS WAS THE
26 SUBJECT OF AN INVESTIGATION WHERE ALLEGATIONS OF MISCONDUCT WERE
27 SUBSTANTIATED BY THE CITY SCHOOL DISTRICT'S SPECIAL COMMISSIONER OF
28 INVESTIGATION, THE CITY SCHOOL DISTRICT'S OFFICE OF SPECIAL INVESTI-
29 GATIONS OR THE CITY SCHOOL DISTRICT'S OFFICE OF EQUAL OPPORTUNITY,
30 PROVIDED HOWEVER IF THERE ARE FEWER LAYOFFS THAN THERE ARE PERSONS IN
31 THIS CATEGORY, LAYOFFS SHALL BE DONE IN ORDER OF THE MOST RECENT INVE-
32 TIGATION OF SUBSTANTIATED ALLEGATIONS;

33 O. ANY TEACHER OR SUPERVISOR WHO HAS FAILED TO FULFILL ALL THE
34 REQUIREMENTS FOR STATE CERTIFICATION AS OF AUGUST THIRTY-FIRST OF THE
35 SCHOOL YEAR IN WHICH THERE IS A CITYWIDE LAYOFF, PROVIDED HOWEVER IF
36 THERE ARE FEWER LAYOFFS THAN THERE ARE PERSONS IN THIS CATEGORY, TEACH-
37 ERS WHO HAVE BEEN WITHOUT FULL CERTIFICATION FROM THE DEPARTMENT THE
38 LONGEST SHALL BE LAID OFF FIRST;

39 P. ANY TEACHER, FOR TWO YEARS OR MORE, RANKED IN THE BOTTOM THIRTY
40 PERCENT OF TEACHERS IN STUDENT TEST SCORES PROGRESS AS MEASURED BY THE
41 CITY SCHOOL DISTRICT'S VALUE-ADDED ASSESSMENT EXCEPT FOR TEACHERS WHO
42 WORK IN LICENSES SPECIFIC TO TEACHING CHILDREN WITH DISABILITIES OR
43 SPECIAL NEEDS. VALUE-ADDED ASSESSMENTS SHALL CONTROL FOR FACTORS INCLUD-
44 ING BUT NOT LIMITED TO THE STUDENT STATUS OR WHOLE CLASS AVERAGE IN THE
45 FOLLOWING CATEGORIES: PREVIOUS ACADEMIC OUTCOMES, FREE AND REDUCED PRICE
46 LUNCH STATUS, ENGLISH LANGUAGE LEARNER STATUS, SPECIAL EDUCATION STATUS,
47 PREVIOUS SUSPENSIONS AND ABSENCES, GRADE-LEVEL RETENTION, SUMMER SCHOOL
48 PARTICIPATION, YEARS ATTENDING THE CURRENT SCHOOL, ETHNICITY, GENDER,
49 AND CLASS SIZE, PROVIDED HOWEVER, IF THERE ARE FEWER LAYOFFS THAN THERE
50 ARE PERSONS IN THIS CATEGORY, TEACHERS WITH THE LOWEST SCORES SHALL BE
51 LAID OFF FIRST; AND

52 Q. ANY TEACHER OR SUPERVISOR WHO ENTERED AN AGREEMENT TO SERVE AN
53 ADDITIONAL PROBATIONARY YEAR PURSUANT TO SECTION TWENTY-FIVE HUNDRED
54 SEVENTY-THREE OF THIS ARTICLE, FOR THE SCHOOL YEAR PRECEDING A CITYWIDE
55 LAYOFF, PROVIDED HOWEVER, IF THERE ARE FEWER LAYOFFS THAN THERE ARE

1 PERSONS IN THIS CATEGORY, TEACHERS OR SUPERVISORS WITH THE MOST NUMBER
2 OF ABSENCES SHALL BE LAID OFF FIRST.

3 (III) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION
4 TO THE CONTRARY, IN THE CASE THAT THE NUMBER OF TEACHING OR SUPERVISORY
5 POSITIONS THAT ARE ABOLISHED, OR THE NUMBER OF TEACHING OR SUPERVISORY
6 EMPLOYEES THAT ARE LAID OFF PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH
7 (A) OF THIS SUBDIVISION IS FEWER THAN THE NUMBER OF SUCH POSITIONS THAT
8 MUST BE ABOLISHED OR REDUCED, THE DECISION CONCERNING WHICH ADDITIONAL
9 POSITIONS ARE TO BE ABOLISHED, AND WHICH PERSONS OCCUPYING SUCH POSI-
10 TIONS ARE TO BE LAID OFF, SHALL BE MADE IN ACCORDANCE WITH THIS SUBPARA-
11 GRAPH.

12 (1) THE BOARD OF REGENTS SHALL PROMULGATE REGULATIONS PRESCRIBING HOW
13 SUCH ADDITIONAL LAYOFFS SHALL BE EFFECTUATED. THE PROMULGATION OF ANY
14 SUCH REGULATION SHALL NOT PERMIT AN EMPLOYEE'S LENGTH OF SERVICE TO BE
15 THE SOLE FACTOR IN ANY DECISION REGARDING WHICH POSITIONS ARE TO BE
16 ABOLISHED AND WHICH PERSONS OCCUPYING SUCH POSITIONS SHALL BE LAID OFF;
17 PROVIDED, HOWEVER, THAT ANY CONSIDERATION OF AN EMPLOYEE'S LENGTH OF
18 FAITHFUL AND COMPETENT SERVICE AS A FACTOR FOR THE ABOLISHMENT OF POSI-
19 TIONS OR PERSONS TO BE LAID OFF OCCUPYING SUCH POSITIONS MAY ONLY BE
20 CONSIDERED IN A MANNER BENEFICIAL TO AN EMPLOYEE AND THAT THE PROMULGA-
21 TION OF ANY SUCH REGULATION SHALL NOT PERMIT AN EMPLOYEE'S SALARY TO BE
22 A FACTOR IN ANY DECISION REGARDING WHICH POSITIONS ARE TO BE ABOLISHED
23 AND WHICH PERSONS OCCUPYING SUCH POSITIONS SHALL BE LAID OFF; AND
24 PROVIDED FURTHER THAT ANY SUCH REGULATIONS MUST ENSURE THAT IN A
25 HIGH-NEED SCHOOL THE NUMBER OF STAFF LAID OFF SHALL NOT EXCEED THE
26 PERCENTAGE OF THE OVERALL NUMBER OF POSITIONS IN THE SCHOOL THAT REPRES-
27 ENTS HALF OF THE AVERAGE PERCENTAGE OF STAFF LAID OFF CITYWIDE; PROVIDED
28 HOWEVER, SAID PERCENTAGE MAY BE EXCEEDED WHERE THE CITY SCHOOL DISTRICT
29 CHOOSES TO ABOLISH ALL POSITIONS IN A LICENSE AREA PURSUANT TO SUBPARA-
30 GRAPH (IV) OF THIS PARAGRAPH. SAID PERCENTAGES SHALL BE CALCULATED
31 EXCLUDING ANY TEACHERS OR SUPERVISORS LAID OFF PURSUANT TO SUBPARAGRAPHS
32 (I) AND (II) OF PARAGRAPH (A) OF THIS SUBDIVISION. FOR PURPOSES OF THIS
33 SECTION, A HIGH-NEED SCHOOL SHALL BE DEFINED AS A SCHOOL IN WHICH AT
34 LEAST NINETY PERCENT OF THE ENROLLED STUDENTS ARE ELIGIBLE APPLICANTS
35 FOR THE FREE AND REDUCED PRICE LUNCH PROGRAM.

36 (2) SHOULD THE BOARD OF REGENTS FAIL TO PROMULGATE REGULATIONS NO
37 LATER THAN SEVENTY-FIVE DAYS PRIOR TO THE EFFECTIVE DATE OF A CITYWIDE
38 LAYOFF, THE BUILDING PRINCIPAL SHALL DETERMINE WHICH ADDITIONAL POSI-
39 TIONS ARE TO BE ABOLISHED, AND WHICH ADDITIONAL PERSONS OCCUPYING SUCH
40 POSITIONS ARE TO BE LAID OFF CONSISTENT WITH GUIDANCE PROMULGATED BY THE
41 CHANCELLOR. THE PRINCIPAL SHALL MAKE THE DECISION AFTER CONSIDERING THE
42 RECOMMENDATIONS OF A SCHOOL-BASED COMMITTEE COMPRISED OF TEACHERS,
43 ADMINISTRATORS AND PARENTS. THE FOLLOWING FACTORS SHALL BE CONSIDERED
44 IN DETERMINING WHICH POSITIONS SHALL BE ABOLISHED AND WHICH PERSONS
45 OCCUPYING SUCH POSITIONS ARE TO BE LAID OFF: (I) SCHOOL NEEDS FOR
46 PARTICULAR LICENSE AREAS; AND (II) WHEN MORE THAN ONE PERSON HOLDS A
47 POSITION WITHIN THE SAME LICENSE AREA, SIGNIFICANT RELEVANT CONTRIB-
48 UTIONS, ACCOMPLISHMENTS, OR PERFORMANCE OF EACH SUCH PERSON; RELEVANT
49 SUPPLEMENTAL PROFESSIONAL EXPERIENCES OF EACH SUCH PERSON AS DEMON-
50 STRATED ON THE JOB; OFFICE OR SCHOOL NEEDS, INCLUDING CURRICULUM
51 SPECIALIZED EDUCATION, DEGREES, LICENSES OR AREAS OF EXPERTISE; AND
52 LENGTH OF SATISFACTORY SERVICE BY EACH SUCH PERSON. ANY SUCH GUIDANCE
53 PROMULGATED BY THE CHANCELLOR SHALL NOT PERMIT AN EMPLOYEE'S LENGTH OF
54 SERVICE TO BE THE SOLE FACTOR IN ANY DECISION REGARDING WHICH POSITIONS
55 ARE TO BE ABOLISHED AND WHICH PERSONS OCCUPYING SUCH POSITIONS SHALL BE
56 LAID OFF; PROVIDED, HOWEVER, THAT ANY CONSIDERATION OF AN EMPLOYEE'S

1 LENGTH OF FAITHFUL AND COMPETENT SERVICE AS A FACTOR FOR THE ABOLISHMENT
2 OF POSITIONS OR PERSONS TO BE LAID OFF OCCUPYING SUCH POSITIONS MAY ONLY
3 BE CONSIDERED IN A MANNER BENEFICIAL TO AN EMPLOYEE AND THAT THE PROMUL-
4 GATION OF ANY SUCH GUIDANCE SHALL NOT PERMIT AN EMPLOYEE'S SALARY TO BE
5 A FACTOR IN ANY DECISION REGARDING WHICH POSITIONS ARE TO BE ABOLISHED
6 AND WHICH PERSONS OCCUPYING SUCH POSITIONS SHALL BE LAID OFF; AND
7 PROVIDED FURTHER THAT ANY SUCH GUIDANCE PROMULGATED BY THE CHANCELLOR
8 MUST ENSURE THAT IN A HIGH-NEED SCHOOL THE NUMBER OF STAFF LAID OFF
9 SHALL NOT EXCEED THE PERCENTAGE OF THE OVERALL NUMBER OF POSITIONS IN
10 THE SCHOOL THAT REPRESENTS HALF OF THE AVERAGE PERCENTAGE OF STAFF LAID
11 OFF CITYWIDE, PROVIDED HOWEVER, SAID PERCENTAGE MAY BE EXCEEDED WHERE
12 THE CITY SCHOOL DISTRICT CHOOSES TO ABOLISH ALL POSITIONS IN A LICENSE
13 AREA PURSUANT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH. SAID PERCENTAGES
14 SHALL BE CALCULATED EXCLUDING ANY TEACHERS OR SUPERVISORS LAID OFF
15 PURSUANT TO SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH. FOR PURPOSES
16 OF THIS SECTION, A HIGH-NEED SCHOOL SHALL BE DEFINED AS A SCHOOL IN
17 WHICH AT LEAST NINETY PERCENT OF THE ENROLLED STUDENTS ARE ELIGIBLE
18 APPLICANTS FOR THE FREE AND REDUCED PRICE LUNCH PROGRAM.

19 (IV) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO
20 THE CONTRARY, ANY REGULATION PROMULGATED BY THE BOARD OF REGENTS OR ANY
21 LOCALLY DEVELOPED PROCESS PURSUANT TO THE REQUIREMENTS OF ARTICLE FOUR-
22 TEEN OF THE CIVIL SERVICE LAW, THE CITY SCHOOL DISTRICT SHALL NOT BE
23 PROHIBITED FROM ABOLISHING ALL POSITIONS IN AN ENTIRE LICENSE AREA
24 PURSUANT TO GUIDANCE PROMULGATED BY THE CHANCELLOR.

25 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO
26 THE CONTRARY, THE CITY SCHOOL DISTRICT AND ITS EMPLOYEES' COLLECTIVE
27 BARGAINING AGENTS SHALL ESTABLISH A PROCEDURE GOVERNING THE ABOLISHMENT
28 OR REDUCTION OF TEACHING OR SUPERVISORY POSITIONS AT INDIVIDUAL SCHOOLS
29 IN ORDER TO MEET SCHOOL BUDGETARY NEEDS, REORGANIZE FUNCTIONS, OR FOR
30 OTHER COMPELLING REASONS OUTSIDE OF A CITYWIDE REDUCTION IN ACCORDANCE
31 WITH PARAGRAPH (A) OF THIS SUBDIVISION, PURSUANT TO THE REQUIREMENTS OF
32 ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW. ANY SUCH LOCALLY ESTABLISHED
33 PROCESS SHALL NOT PERMIT AN EMPLOYEE'S LENGTH OF SERVICE TO BE THE SOLE
34 FACTOR IN ANY DECISION REGARDING WHICH POSITIONS ARE TO BE ABOLISHED AND
35 WHICH PERSONS OCCUPYING SUCH POSITIONS SHALL BE EXCESSED; PROVIDED
36 HOWEVER THAT ANY CONSIDERATION OF AN EMPLOYEE'S LENGTH OF FAITHFUL AND
37 COMPETENT SERVICE AS A FACTOR FOR THE ABOLISHMENT OF POSITIONS OR
38 PERSONS TO BE EXCESSED OCCUPYING SUCH POSITIONS MAY ONLY BE CONSIDERED
39 IN A MANNER BENEFICIAL TO AN EMPLOYEE AND THAT THE PROMULGATION OF ANY
40 SUCH REGULATION SHALL NOT PERMIT AN EMPLOYEE'S SALARY TO BE A FACTOR IN
41 ANY DECISION REGARDING WHICH POSITIONS ARE TO BE ABOLISHED AND WHICH
42 PERSONS OCCUPYING SUCH POSITIONS SHALL BE EXCESSED. FOR POSITIONS
43 COVERED BY SECTION THREE THOUSAND TWELVE-C OF THIS CHAPTER, ANY SUCH
44 LOCALLY DEVELOPED PROCESS SHALL BE BASED ON THE ANNUAL PROFESSIONAL
45 PERFORMANCE REVIEW FOR TEACHERS AND SUPERVISORS PURSUANT TO SUCH SECTION
46 THREE THOUSAND TWELVE-C AND ITS IMPLEMENTING REGULATIONS. UNTIL AND
47 UNLESS SUCH A PROCESS HAS BEEN ESTABLISHED AT LEAST NINETY DAYS BEFORE
48 THE START OF THE SCHOOL YEAR, THE FOLLOWING SHALL APPLY:

49 (I) DECISIONS CONCERNING WHICH POSITIONS ARE TO BE ABOLISHED SHALL BE
50 MADE IN ACCORDANCE WITH THE SAME PROCESS PRESCRIBED FOR MAKING LAYOFF
51 DECISIONS SET FORTH IN SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (A) OF
52 THIS SUBDIVISION. IN THE CASE THAT THE NUMBER OF TEACHING OR SUPERVISORY
53 EMPLOYEES EXCESSED IS FEWER THAN THE NUMBER OF SUCH POSITIONS THAT MUST
54 BE EXCESSED PURSUANT TO THIS SUBPARAGRAPH, THE BOARD OF REGENTS SHALL
55 PROMULGATE REGULATIONS ESTABLISHING THE PROCESS TO BE USED TO DETERMINE
56 WHICH POSITIONS SHALL BE ABOLISHED AND WHICH PERSONS OCCUPYING SUCH

1 POSITIONS SHALL BE EXCESSED. THE PROMULGATION OF ANY SUCH REGULATION
2 SHALL NOT PERMIT AN EMPLOYEE'S LENGTH OF SERVICE TO BE THE SOLE FACTOR
3 IN ANY DECISION REGARDING WHICH POSITIONS ARE TO BE ABOLISHED AND WHICH
4 PERSONS OCCUPYING SUCH POSITIONS SHALL BE EXCESSED; PROVIDED HOWEVER
5 THAT ANY CONSIDERATION OF AN EMPLOYEE'S LENGTH OF FAITHFUL AND COMPETENT
6 SERVICE AS A FACTOR FOR THE ABOLISHMENT OF POSITIONS OR PERSONS TO BE
7 EXCESSED OCCUPYING SUCH POSITIONS MAY ONLY BE CONSIDERED IN A MANNER
8 BENEFICIAL TO AN EMPLOYEE AND THAT THE PROMULGATION OF ANY SUCH REGU-
9 LATION SHALL NOT PERMIT AN EMPLOYEE'S SALARY TO BE A FACTOR IN ANY DECI-
10 SION REGARDING WHICH POSITIONS ARE TO BE ABOLISHED AND WHICH PERSONS
11 OCCUPYING SUCH POSITIONS SHALL BE EXCESSED. SHOULD THE BOARD OF REGENTS
12 FAIL TO PROMULGATE REGULATIONS NO LATER THAN SEVENTY-FIVE DAYS PRIOR TO
13 THE FIRST DAY OF THE SCHOOL YEAR, THE BUILDING PRINCIPAL SHALL DETERMINE
14 WHICH TEACHERS OR SUPERVISORS ARE TO BE EXCESSED, CONSISTENT WITH GUID-
15 ANCE PROMULGATED BY THE CHANCELLOR PURSUANT TO THIS SUBDIVISION. THE
16 PRINCIPAL SHALL MAKE THE DECISION AFTER CONSIDERING THE RECOMMENDATIONS
17 OF A SCHOOL-BASED COMMITTEE COMPRISED OF TEACHERS, ADMINISTRATORS AND
18 PARENTS. THE FOLLOWING FACTORS SHALL BE CONSIDERED IN DETERMINING WHICH
19 POSITIONS SHALL BE ABOLISHED AND WHICH PERSONS OCCUPYING SUCH POSITIONS
20 ARE TO BE EXCESSED: (1) SCHOOL NEEDS FOR PARTICULAR LICENSE AREAS; AND
21 (2) WHEN MORE THAN ONE PERSON HOLDS A POSITION WITHIN THE SAME LICENSE
22 AREA: SIGNIFICANT RELEVANT CONTRIBUTIONS, ACCOMPLISHMENTS, OR PERFORM-
23 ANCE OF EACH SUCH PERSON; RELEVANT SUPPLEMENTAL PROFESSIONAL EXPERIENCES
24 OF EACH SUCH PERSON AS DEMONSTRATED ON THE JOB; OFFICE OR SCHOOL NEEDS,
25 INCLUDING: CURRICULUM SPECIALIZED EDUCATION, DEGREES, LICENSES OR AREAS
26 OF EXPERTISE; AND LENGTH OF SATISFACTORY SERVICE BY EACH SUCH PERSON.
27 ANY SUCH GUIDANCE PROMULGATED BY THE CHANCELLOR SHALL NOT PERMIT AN
28 EMPLOYEE'S LENGTH OF SERVICE TO BE THE SOLE FACTOR IN ANY DECISION
29 REGARDING WHICH POSITIONS ARE TO BE ABOLISHED AND WHICH PERSONS OCCUPY-
30 ING SUCH POSITIONS SHALL BE EXCESSED; PROVIDED, HOWEVER, THAT ANY
31 CONSIDERATION OF AN EMPLOYEE'S LENGTH OF FAITHFUL AND COMPETENT SERVICE
32 AS A FACTOR FOR THE ABOLISHMENT OF POSITIONS OR PERSONS TO BE EXCESSED
33 OCCUPYING SUCH POSITIONS MAY ONLY BE CONSIDERED IN A MANNER BENEFICIAL
34 TO AN EMPLOYEE AND THAT THE PROMULGATION OF ANY SUCH GUIDANCE SHALL NOT
35 PERMIT AN EMPLOYEE'S SALARY TO BE A FACTOR IN ANY DECISION REGARDING
36 WHICH POSITIONS ARE TO BE ABOLISHED AND WHICH PERSONS OCCUPYING SUCH
37 POSITIONS SHALL BE LAID OFF. SHOULD CITYWIDE LAYOFFS IN ACCORDANCE WITH
38 PARAGRAPH (A) OF THIS SUBDIVISION BE CARRIED OUT, A DETERMINATION OF
39 WHETHER ANY TEACHER OR SUPERVISOR SHALL BE LAID OFF WHOSE POSITION HAS
40 BEEN ABOLISHED AND IS IN EXCESS FROM A REGULARLY APPOINTED POSITION IN
41 THE DISTRICT FOR LESS THAN SIX MONTHS, SHALL BE MADE PURSUANT TO SUBPAR-
42 AGRAPHS (I) AND (II) OF PARAGRAPH (A) OF THIS SUBDIVISION.

43 S 4. Subdivision 4 of section 2588 of the education law is REPEALED
44 and a new subdivision 4 is added to read as follows:

45 4. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO
46 THE CONTRARY, THE CITY SCHOOL DISTRICT AND ITS COLLECTIVE BARGAINING
47 AGENTS SHALL ESTABLISH A PROCEDURE PURSUANT TO THE REQUIREMENTS OF ARTI-
48 CLE FOURTEEN OF THE CIVIL SERVICE LAW GOVERNING THE RIGHTS OF EMPLOYEES
49 TO RETURN TO VACANT POSITIONS IN THE CITY SCHOOL DISTRICT. UNTIL AND
50 UNLESS A LOCALLY ESTABLISHED PROCEDURE IS ESTABLISHED PURSUANT TO THE
51 REQUIREMENTS OF ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW, THE FOLLOWING
52 SHALL APPLY CONCERNING THE RIGHTS OF EMPLOYEES TO RETURN TO VACANT POSI-
53 TIONS. WHENEVER A TEACHING OR SUPERVISORY POSITION IS ABOLISHED PURSU-
54 ANT TO CLAUSES ONE AND TWO OF SUBPARAGRAPH (III) OF PARAGRAPH (A) OF
55 SUBDIVISION THREE OF THIS SECTION, SHOULD A VACANCY OCCUR IN THE SAME
56 POSITION AT THE SAME SCHOOL OR ADMINISTRATIVE OFFICE WITHIN ONE YEAR OF

1 THE DATE WHEN THE POSITION WAS ABOLISHED, THE PRINCIPAL, OR THE CHANCEL-
2 LOR OR HIS OR HER DESIGNEE, SHALL OFFER THE POSITION TO THE PERSON WHO
3 HELD THE POSITION BEFORE IT WAS ABOLISHED. IF THE PERSON REJECTS THE
4 OFFER, OR FAILS TO RESPOND TO THE OFFER WITHIN THIRTY DAYS, THE PERSON
5 SHALL NO LONGER HAVE A RIGHT TO RETURN TO THE POSITION. IF MORE THAN ONE
6 POSITION WAS ABOLISHED IN THE SAME LICENSE AREA AT THE SAME SCHOOL OR
7 ADMINISTRATIVE OFFICE, AND THERE ARE FEWER VACANCIES IN THE SAME LICENSE
8 AREA THAN PERSONS WHOSE POSITIONS WERE ABOLISHED, THE PRINCIPAL, OR THE
9 CHANCELLOR, SHALL HAVE THE DISCRETION TO DETERMINE WHICH PERSON SHOULD
10 BE OFFERED THE POSITION FIRST. THE CHANCELLOR SHALL PROMULGATE GUIDANCE
11 TO DETERMINE THE RIGHT OF RETURN OF ANY TEACHERS OR SUPERVISORS LAID OFF
12 PURSUANT TO SUBPARAGRAPH (IV) OF PARAGRAPH (A) OF SUBDIVISION THREE OF
13 THIS SECTION. TEACHERS OR SUPERVISORS LAID OFF PURSUANT TO SUBPARAGRAPH
14 (I) OF PARAGRAPH (A) OF SUBDIVISION THREE OF THIS SECTION AND CLAUSE ONE
15 OF SUBPARAGRAPH (II) OF PARAGRAPH (A) OF SUBDIVISION THREE OF THIS
16 SECTION, SHALL HAVE NO RIGHTS TO RETURN TO A VACANT POSITION PURSUANT TO
17 THIS SECTION.

18 S 5. Subdivision 7 of section 2588 of the education law is REPEALED.

19 S 6. Severability. If any clause, sentence, paragraph, section or part
20 of this act shall be adjudged by any court of competent jurisdiction to
21 be invalid and after exhaustion of all further judicial review, the
22 judgment shall not affect, impair or invalidate the remainder thereof,
23 but shall be confined in its operation to the clause, sentence, para-
24 graph, section or part of this act directly involved in the controversy
25 in which the judgment shall have been rendered.

26 S 7. This act shall take effect immediately.