

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

S. 6257--B

A. 9057--B

S E N A T E - A S S E M B L Y

January 17, 2012

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- 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

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT in relation to school district eligibility for an increase in apportionment of school aid and implementation of new standards for conducting annual professional performance reviews to determine teacher and principal effectiveness; to amend the education law, in relation to contracts for excellence, apportionment of school aid, apportionment of school aid and of current year approved expenditures for debt service, calculation of the gap elimination restoration amount, apportionment for transportation, school district management efficiency awards, maximum class size; to amend chapter 756 of the laws of 1992 relating to funding a program for work force education conducted by the consortium for worker education in New York city, in relation to apportionment and reimbursement; and in relation to extending the expiration of certain provisions; to amend chapter 169 of the laws of 1994 relating to certain provisions related to the 1994-95 state operations, aid to localities, capital projects and debt service budgets, chapter 82 of the laws of 1995, amending the education law and certain other laws relating to state aid to school districts and the appropriation of funds for the support of government, chapter 698 of the laws of 1996 amending the education law relating to transportation contracts, chapter 147 of the laws of 2001 amending the education law relating to conditional appointment of school district, charter school or BOCES employees, chapter 425 of the laws of 2002 amending the education law relating to the provision of supplemental educational services, attendance at a safe public school

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

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and the suspension of pupils who bring a firearm to or possess a firearm at a school, chapter 101 of the laws of 2003 amending the education law relating to implementation of the No Child Left Behind Act of 2001, to amend chapter 57 of the laws of 2008 amending the education law relating to the universal pre-kindergarten program, in relation to extending the expiration of certain provisions of such chapters; in relation to school bus driver training; in relation to the support of public libraries; to provide special apportionment for salary expenses; to provide special apportionment for public pension expenses; in relation to suballocation of certain education department accruals; in relation to purchases by the city school district of Rochester; relating to submission of school construction final cost reports; and providing for the repeal of certain provisions upon expiration thereof (Part A); to amend the education law, in relation to annual professional performance review of classroom teachers and building principals (Part A-1); to amend the education law, in relation to teacher evaluation appeal process in the city of New York (Part A-2); to amend the education law, in relation to tenured teacher disciplinary hearings (Part B); to amend the social services law, in relation to increasing the standards of monthly need for aged, blind and disabled persons living in the community (Part C); to amend the social services law, in relation to the standards of monthly need for persons in receipt of public assistance (Part D); to amend the social services law, in relation to authorizing the office of temporary and disability assistance to administer the program of supplemental security income additional state payments; and to repeal certain provisions of such law relating thereto (Part E); to amend chapter 83 of the laws of 2002 amending the executive law and other laws relating to funding for children and family services, in relation to the effectiveness thereof; and to amend the social services law, in relation to reauthorizing child welfare financing to continue current funding structure (Part F); to amend the social services law and the family court act, in relation to establishing a juvenile justice services close to home initiative and providing for the repeal of such provisions upon expiration thereof (Subpart A); and to amend the social services law and the family court act, in relation to juvenile delinquents (Subpart B) (Part G); to amend chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to the New York state higher education capital matching grant program for independent colleges, in relation to the effectiveness thereof (Part H); to amend the education law, in relation to provision of services, technical assistance and program activities to state agencies by Cornell university (Part I); to amend the education law, in relation to special education programs for preschool children with a disability (Part J); to amend the education law, in relation to authorizing the board of cooperative educational services to enter into contracts with the commissioner of children and family services to provide certain services (Part K); to repeal section 527-1 of the executive law, relating to annual reports of the youth center facility program (Part L); and to amend the executive law, in relation to the creation of a validated risk assessment instrument (Part M)

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 implement the state fiscal plan for the 2012-2013
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through M. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-
7 ing the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

12 PART A

13 Section 1. Notwithstanding any inconsistent provision of law, no
14 school district shall be eligible for an apportionment of general
15 support for public schools from the funds appropriated for the 2012-13
16 school year and thereafter in excess of the amount apportioned to such
17 district for the same time period during the base year unless such
18 school district has submitted documentation that has been approved by
19 the commissioner of education by January 17, 2013 demonstrating that it
20 has fully implemented new standards and procedures for conducting annual
21 professional performance reviews of classroom teachers and building
22 principals to determine teacher and principal effectiveness including
23 but not limited to providing for (i) state assessments and other compa-
24 rable measures which shall comprise twenty or twenty-five percent of the
25 evaluation; (ii) locally selected measures of the student achievement
26 subcomponent which shall comprise twenty or fifteen percent of the eval-
27 uation; (iii) subjective measures of effectiveness that have been
28 approved by the commissioner with the majority of such points based on
29 multiple observations by an administrator or principal with at least one
30 unannounced observation which shall comprise 60 percent of the evalu-
31 ation; and (iv) a scoring rubric which ensures that it is possible to
32 receive any one of four ratings limited to highly effective, effective,
33 developing and ineffective; provided however that if any such payments
34 in excess of the amount apportioned to such district for the same time
35 period during the base year were made, and the school district has not
36 submitted documentation that it has fully implemented new standards and
37 procedures as set forth above that has been approved by the commissioner
38 of education by January 17, 2013, the total amount of such payments
39 shall be deducted by the commissioner from future payments to the school
40 district; provided further that, for the 2012-13 school year if such
41 deduction is greater than the sum of the amounts available for such
42 deductions, the remainder of the deduction shall be withheld from
43 payments scheduled to be made to the school district pursuant to section
44 3609-a of the education law for the 2013-14 school year; provided
45 further that notwithstanding any inconsistent provision of law to the
46 contrary such documentation shall include a plan adopted by the govern-
47 ing board of the school district for conducting annual professional
48 performance reviews of classroom teachers and building principals that
49 has been approved by the commissioner, and in order to be approvable
50 such plan shall conform with the requirements for conducting annual
51 professional performance reviews of classroom teachers and building
52 principals, including but not limited to (i) state assessments and other
53 comparable measures which shall comprise twenty or twenty-five percent
54 of the evaluation; (ii) locally selected measures of the student

1 achievement subcomponent which shall comprise twenty or fifteen percent
2 of the evaluation; (iii) subjective measures of effectiveness that have
3 been approved by the commissioner with the majority of such points based
4 on multiple observations by an administrator or principal with at least
5 one unannounced observation which shall comprise 60 percent of the eval-
6 uation; and (iv) a scoring rubric which ensures that it is possible to
7 receive any one of four ratings limited to highly effective, effective,
8 developing and ineffective; consistent with and conforms to a chapter of
9 the laws of 2012 enacted as legislation submitted by the governor pursu-
10 ant to Article VII of the New York constitution; and provided further
11 that for a school district in a city with a population of one million or
12 more, notwithstanding any inconsistent provision of law, no such school
13 district shall be eligible for an apportionment of general support for
14 public schools from the funds appropriated for the 2012-13 school year
15 and thereafter in excess of the amount appropriated to such district for
16 the same time period during the base year unless such school district
17 has submitted documentation that has been approved by the commissioner
18 by January 17, 2013 demonstrating that it has adopted an expeditious
19 appeals process pertaining to the annual professional performance review
20 of classroom teachers and building principals that is consistent with
21 and conforms to a chapter of the laws of 2012 enacted as legislation
22 submitted by the governor pursuant to Article VII of the New York
23 constitution and if any such payments in excess of the amount appor-
24 tioned to such district for the same time period during the base year
25 were made, and the school district has not submitted documentation that
26 has been approved by the commissioner by January 17, 2013 that it has
27 adopted an expeditious appeals process pertaining to the annual profes-
28 sional performance review of classroom teachers and building principals
29 that is consistent with and conforms to a chapter of the laws of 2012
30 enacted as legislation submitted by the governor pursuant to Article VII
31 of the New York constitution, the total amount of such payments shall be
32 deducted by the commissioner from future payments to the school
33 district; and provided further that, for the 2012-13 school year if such
34 deduction is greater than the sum of the amounts available for such
35 deductions, the remainder of the deduction shall be withheld from
36 payments scheduled to be made to the school district pursuant to section
37 3609-a of the education law for the 2013-14 school year.

38 S 2. Paragraph e of subdivision 1 of section 211-d of the education
39 law, as amended by section 1 of part A of chapter 58 of the laws of
40 2011, is amended to read as follows:

41 e. Notwithstanding paragraphs a and b of this subdivision, a school
42 district that submitted a contract for excellence for the two thousand
43 eight--two thousand nine school year shall submit a contract for excel-
44 lence for the two thousand nine--two thousand ten school year in
45 conformity with the requirements of subparagraph (vi) of paragraph a of
46 subdivision two of this section unless all schools in the district are
47 identified as in good standing and provided further that, a school
48 district that submitted a contract for excellence for the two thousand
49 nine--two thousand ten school year, unless all schools in the district
50 are identified as in good standing, shall submit a contract for excel-
51 lence for the two thousand eleven--two thousand twelve school year which
52 shall, notwithstanding the requirements of subparagraph (vi) of para-
53 graph a of subdivision two of this section, provide for the expenditure
54 of an amount which shall be not less than the product of the amount
55 approved by the commissioner in the contract for excellence for the two
56 thousand nine--two thousand ten school year, multiplied by the

1 district's gap elimination adjustment percentage AND PROVIDED FURTHER
2 THAT, A SCHOOL DISTRICT THAT SUBMITTED A CONTRACT FOR EXCELLENCE FOR THE
3 TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR, UNLESS ALL SCHOOLS
4 IN THE DISTRICT ARE IDENTIFIED AS IN GOOD STANDING, SHALL SUBMIT A
5 CONTRACT FOR EXCELLENCE FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIR-
6 TEEN SCHOOL YEAR WHICH SHALL, NOTWITHSTANDING THE REQUIREMENTS OF
7 SUBPARAGRAPH (VI) OF PARAGRAPH A OF SUBDIVISION TWO OF THIS SECTION,
8 PROVIDE FOR THE EXPENDITURE OF AN AMOUNT WHICH SHALL BE NOT LESS THAN
9 THE AMOUNT APPROVED BY THE COMMISSIONER IN THE CONTRACT FOR EXCELLENCE
10 FOR THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR. For
11 purposes of this paragraph, the "gap elimination adjustment percentage"
12 shall be calculated as the sum of one minus the quotient of the sum of
13 the school district's net gap elimination adjustment for two thousand
14 ten--two thousand eleven computed pursuant to chapter fifty-three of the
15 laws of two thousand ten, making appropriations for the support of
16 government, plus the school district's gap elimination adjustment for
17 two thousand eleven--two thousand twelve as computed pursuant to [a]
18 chapter FIFTY-THREE of the laws of two thousand eleven, making appropri-
19 ations for the support of the local assistance budget, including support
20 for general support for public schools, divided by the total aid for
21 adjustment computed pursuant to [a] chapter FIFTY-THREE of the laws of
22 two thousand eleven, making appropriations for the local assistance
23 budget, including support for general support for public schools.
24 Provided, further, that such amount shall be expended to support and
25 maintain allowable programs and activities approved in the two thousand
26 nine--two thousand ten school year or to support new or expanded allow-
27 able programs and activities in the current year.

28 S 3. Subdivision 1 of section 1104 of the education law, as amended by
29 chapter 53 of the laws of 1990, is amended to read as follows:

30 1. The commissioner [of education] in the annual apportionment of
31 public moneys shall apportion therefrom to each county maintaining
32 approved vocational education and extension work, a quota amounting to
33 one-half of the salary paid each teacher, director, assistant, and
34 supervisor, WHERE SUCH SALARY IS ATTRIBUTABLE TO A COURSE OF STUDY FIRST
35 SUBMITTED TO THE COMMISSIONER FOR APPROVAL PURSUANT TO SECTION ELEVEN
36 HUNDRED THREE OF THIS PART ON OR BEFORE JULY FIRST, TWO THOUSAND TEN,
37 but not to exceed THE AMOUNT COMPUTED BY THE COMMISSIONER BASED UPON AN
38 ASSUMED ANNUALIZED SALARY EQUAL TO ten thousand five hundred dollars PER
39 SCHOOL YEAR on account of the employment of such teacher, director,
40 assistant or supervisor.

41 S 4. Section 1104 of the education law is amended by adding a new
42 subdivision 3 to read as follows:

43 3. FOR THE APPORTIONMENT PAYABLE PURSUANT TO THIS SECTION FOR SCHOOL
44 YEARS COMMENCING PRIOR TO JULY FIRST, TWO THOUSAND NINE, THE COMMISSION-
45 ER SHALL CERTIFY NO PAYMENT TO A VOCATIONAL EDUCATION AND EXTENSION
46 BOARD BASED ON A CLAIM SUBMITTED LATER THAN THREE YEARS AFTER THE CLOSE
47 OF THE SCHOOL YEAR IN WHICH SUCH PAYMENT WAS FIRST TO BE MADE. FOR
48 CLAIMS FOR WHICH PAYMENT IS FIRST TO BE MADE IN THE TWO THOUSAND
49 NINE--TWO THOUSAND TEN SCHOOL YEAR AND THEREAFTER, THE COMMISSIONER
50 SHALL CERTIFY NO PAYMENT TO A VOCATIONAL EDUCATION AND EXTENSION BOARD
51 BASED ON A CLAIM SUBMITTED LATER THAN ONE YEAR AFTER THE CLOSE OF SUCH
52 SCHOOL YEAR. PROVIDED, HOWEVER, NO PAYMENTS SHALL BE BARRED OR REDUCED
53 WHERE SUCH PAYMENT IS REQUIRED AS A RESULT OF A FINAL AUDIT OF THE
54 STATE.

1 S 5. Paragraphs dd and ee of subdivision 1 of section 3602 of the
2 education law, as added by section 25 of part A of chapter 58 of the
3 laws of 2011, are amended to read as follows:

4 dd. "Allowable growth amount" shall mean the product of the positive
5 difference of the personal income growth index minus one, multiplied by
6 the statewide total of the SUM OF (1) THE apportionments, including the
7 gap elimination adjustment, due and owing during the base year, commenc-
8 ing with the base year computed for the two thousand twelve--two thou-
9 sand thirteen school year, to school districts and boards of cooperative
10 educational services from the general support for public schools as
11 computed based on an electronic data file used to produce the school aid
12 computer listing produced by the commissioner in support of the enacted
13 budget for the base year PLUS (2) THE COMPETITIVE AWARDS AMOUNT FOR THE
14 BASE YEAR.

15 ee. "Competitive awards amount" shall mean, for two thousand twelve--
16 two thousand thirteen state fiscal year, fifty million dollars, and for
17 two thousand thirteen--two thousand fourteen and thereafter, [the prod-
18 uct of the personal income growth index multiplied by the base year
19 competitive awards amount] ONE HUNDRED MILLION DOLLARS.

20 S 6. Paragraph c of subdivision 17 of section 3602 of the education
21 law, as added by section 37 of part A of chapter 58 of the laws of 2011,
22 is amended and a new paragraph d is added to read as follows:

23 c. The gap elimination adjustment for the two thousand twelve--two
24 thousand thirteen school year and thereafter shall be equal to the gap
25 elimination adjustment for the base year, plus, in any year in which the
26 preliminary growth amount exceeds the allowable growth amount, the prod-
27 uct of the gap elimination adjustment percentage for such district and
28 the positive difference, if any, between the preliminary growth amount
29 less the allowable growth amount, as computed pursuant to subdivision
30 one of this section, and less the [product of the gap elimination
31 adjustment percentage for such district and the] gap elimination adjust-
32 ment restoration amount, if any, allocated pursuant to [subdivision
33 eighteen of] this section.

34 D. (I) THE GAP ELIMINATION RESTORATION AMOUNT FOR THE TWO THOUSAND
35 TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR FOR A SCHOOL DISTRICT SHALL
36 EQUAL THE GREATER OF:

37 (A) THE PRODUCT OF (1) THE PRODUCT OF THE EXTRAORDINARY NEEDS INDEX
38 MULTIPLIED BY TWO HUNDRED FOURTEEN DOLLARS AND FIFTY CENTS, COMPUTED TO
39 TWO DECIMAL PLACES WITHOUT ROUNDING, MULTIPLIED BY (2) THE STATE SHARING
40 RATIO COMPUTED PURSUANT TO PARAGRAPH G OF SUBDIVISION THREE OF THIS
41 SECTION MULTIPLIED BY (3) THE PUBLIC SCHOOL DISTRICT ENROLLMENT FOR THE
42 BASE YEAR, CALCULATED PURSUANT TO SUBPARAGRAPH TWO OF PARAGRAPH N OF
43 SUBDIVISION ONE OF THIS SECTION, WHERE THE EXTRAORDINARY NEEDS INDEX
44 SHALL BE THE QUOTIENT OF THE EXTRAORDINARY NEEDS PERCENT FOR THE
45 DISTRICT COMPUTED PURSUANT TO PARAGRAPH W OF SUBDIVISION ONE OF THIS
46 SECTION DIVIDED BY THE STATEWIDE AVERAGE EXTRAORDINARY NEEDS PERCENT; OR

47 (B) FOR ANY DISTRICT WITH A GEA/TGFE RATIO GREATER THAN ONE, WHERE THE
48 GEA/TGFE RATIO SHALL BE THE QUOTIENT OF (1) THE GAP ELIMINATION ADJUST-
49 MENT FOR THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR FOR
50 THE DISTRICT DIVIDED BY THE TOTAL GENERAL FUND EXPENDITURES OF SUCH
51 DISTRICT IN THE BASE YEAR, DIVIDED BY (2) THE STATEWIDE TOTAL GAP ELIMI-
52 NATION ADJUSTMENT FOR THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE
53 SCHOOL YEAR DIVIDED BY TOTAL GENERAL FUND EXPENDITURES IN THE BASE YEAR,
54 THE PRODUCT OF (A) THE PRODUCT OF THE GEA/TGFE RATIO MULTIPLIED BY NINE-
55 TY DOLLARS, COMPUTED TO TWO DECIMAL PLACES WITHOUT ROUNDING, MULTIPLIED
56 BY (B) THE STATE SHARING RATIO COMPUTED PURSUANT TO PARAGRAPH G OF

1 SUBDIVISION THREE OF THIS SECTION MULTIPLIED BY (C) THE PUBLIC SCHOOL
2 DISTRICT ENROLLMENT FOR THE BASE YEAR, CALCULATED PURSUANT TO SUBPARA-
3 GRAPH TWO OF PARAGRAPH N OF SUBDIVISION ONE OF THIS SECTION; OR

4 (C) ONE PERCENT OF THE GAP ELIMINATION ADJUSTMENT FOR THE TWO THOUSAND
5 ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR,

6 BUT SHALL BE NO GREATER THAN THE PRODUCT OF TWENTY-FIVE PERCENT AND
7 THE GAP ELIMINATION ADJUSTMENT FOR THE TWO THOUSAND ELEVEN--TWO THOUSAND
8 TWELVE SCHOOL YEAR FOR THE DISTRICT.

9 (II) THE GAP ELIMINATION RESTORATION AMOUNT FOR THE TWO THOUSAND THIR-
10 TEEN--TWO THOUSAND FOURTEEN SCHOOL YEAR AND THEREAFTER SHALL EQUAL THE
11 PRODUCT OF THE GAP ELIMINATION PERCENTAGE FOR SUCH DISTRICT AND THE GAP
12 ELIMINATION ADJUSTMENT RESTORATION ALLOCATION ESTABLISHED PURSUANT TO
13 SUBDIVISION EIGHTEEN OF THIS SECTION.

14 S 7. Paragraph c of subdivision 7 of section 3602 of the education
15 law, as amended by section 1 of part A-4 of chapter 58 of the laws of
16 2006, is amended to read as follows:

17 c. For the purposes of computing this apportionment for the two thou-
18 sand five--two thousand six school year and thereafter, approved trans-
19 portation capital, debt service, and lease expense shall be the amount
20 computed based upon an assumed amortization determined pursuant to para-
21 graph e of this subdivision for an expenditure incurred by a school
22 district and approved by the commissioner for those items of transporta-
23 tion capital, debt service and lease expense allowable under subdivision
24 two of section thirty-six hundred twenty-three-a of this article for:

25 (i) the regular aidable transportation of pupils, as such terms are
26 defined in sections thirty-six hundred twenty-one and thirty-six hundred
27 twenty-two-a of this article, (ii) the transportation of children with
28 disabilities pursuant to article eighty-nine of this chapter, and (iii)
29 the transportation of homeless children pursuant to paragraph c of
30 subdivision four of section thirty-two hundred nine of this chapter,
31 provided that the total approved cost of such transportation shall not
32 exceed the amount of the total cost of the most cost-effective mode of
33 transportation. Approvable expenses for the purchase of school buses ON
34 OR BEFORE JUNE THIRTIETH, TWO THOUSAND TWELVE shall be limited to the
35 actual purchase price, or the expense as if the bus were purchased under
36 state contract, whichever is less. If the commissioner determines that
37 no comparable bus was available under state contract at the time of
38 purchase, the approvable expenses shall be the actual purchase price or
39 the state wide median price of such bus in the most recent base year in
40 which such median price was established with an allowable year to year
41 CPI increase as defined in subdivision fourteen of section three hundred
42 five of this chapter; whichever is less. Such median shall be computed
43 by the commissioner for the purposes of this subdivision. APPROVABLE
44 EXPENSES FOR THE PURCHASE OF VEHICLES FOR TRANSPORTING STUDENTS AND FOR
45 EQUIPMENT DEEMED A PROPER SCHOOL DISTRICT EXPENSE PURSUANT TO PARAGRAPH
46 C OF SUBDIVISION TWO OF SECTION THIRTY-SIX HUNDRED TWENTY-THREE-A OF
47 THIS ARTICLE, AFTER JUNE THIRTIETH, TWO THOUSAND TWELVE, SHALL BE LIMIT-
48 ED TO THE ACTUAL PURCHASE PRICE OF ANY VEHICLE FOR TRANSPORTING STUDENTS
49 AND/OR EQUIPMENT PURCHASED UNDER SUCH CENTRALIZED STATE CONTRACT,
50 PROVIDED, HOWEVER THAT IF THE COMMISSIONER DETERMINES THAT THE DISTRICT
51 IS UNABLE TO PROVIDE APPROPRIATE TRANSPORTATION WITH THE VEHICLE FOR
52 TRANSPORTING STUDENTS AND/OR EQUIPMENT AVAILABLE UNDER SUCH CENTRALIZED
53 STATE CONTRACT, THE APPROVABLE EXPENSES SHALL BE THE ACTUAL PURCHASE
54 PRICE OR THE STATEWIDE MEDIAN PRICE OF SUCH VEHICLE FOR TRANSPORTING
55 STUDENTS IN THE MOST RECENT BASE YEAR IN WHICH SUCH MEDIAN PRICE WAS
56 ESTABLISHED WITH AN ALLOWABLE YEAR TO YEAR CPI INCREASE AS DEFINED IN

1 SUBDIVISION FOURTEEN OF SECTION THREE HUNDRED FIVE OF THIS CHAPTER;
2 WHICHEVER IS LESS.

3 S 8. Paragraphs a and b of subdivision 5 of section 3604 of the educa-
4 tion law, paragraph a as amended by chapter 161 of the laws of 2005 and
5 paragraph b as amended by section 59 of part A of chapter 436 of the
6 laws of 1997, are amended to read as follows:

7 a. State aid adjustments. All errors or omissions in the apportionment
8 shall be corrected by the commissioner. Whenever a school district has
9 been apportioned less money than that to which it is entitled, the
10 commissioner may allot to such district the balance to which it is enti-
11 tled. Whenever a school district has been apportioned more money than
12 that to which it is entitled, the commissioner may, by an order, direct
13 such moneys to be paid back to the state to be credited to the general
14 fund local assistance account for state aid to the schools, or may
15 deduct such amount from the next apportionment to be made to said
16 district, provided, however, that, upon notification of excess payments
17 of aid for which a recovery must be made by the state through deduction
18 of future aid payments, a school district may request that such excess
19 payments be recovered by deducting such excess payments from the
20 payments due to such school district and payable in the month of June in
21 (i) the school year in which such notification was received and (ii) the
22 two succeeding school years, provided further that there shall be no
23 interest penalty assessed against such district or collected by the
24 state. Such request shall be made to the commissioner in such form as
25 the commissioner shall prescribe, and shall be based on documentation
26 that the total amount to be recovered is in excess of one percent of the
27 district's total general fund expenditures for the preceding school
28 year. The amount to be deducted in the first year shall be the greater
29 of (i) the sum of the amount of such excess payments that is recognized
30 as a liability due to other governments by the district for the preced-
31 ing school year and the positive remainder of the district's unreserved
32 fund balance at the close of the preceding school year less the product
33 of the district's total general fund expenditures for the preceding
34 school year multiplied by five percent, or (ii) one-third of such excess
35 payments. The amount to be recovered in the second year shall equal the
36 lesser of the remaining amount of such excess payments to be recovered
37 or one-third of such excess payments, and the remaining amount of such
38 excess payments shall be recovered in the third year. Provided further
39 that, notwithstanding any other provisions of this subdivision, any
40 pending payment of moneys due to such district as a prior year adjust-
41 ment payable pursuant to paragraph c of this subdivision for aid claims
42 that had been previously paid as current year aid payments in excess of
43 the amount to which the district is entitled and for which recovery of
44 excess payments is to be made pursuant to this paragraph, shall be
45 reduced at the time of actual payment by any remaining unrecovered
46 balance of such excess payments, and the remaining scheduled deductions
47 of such excess payments pursuant to this paragraph shall be reduced by
48 the commissioner to reflect the amount so recovered. [The commissioner
49 shall certify no payment to a school district based on a claim submitted
50 later than three years after the close of the school year in which such
51 payment was first to be made. For claims for which payment is first to
52 be made in the nineteen hundred ninety-six--ninety-seven school year,
53 the commissioner shall certify no payment to a school district based on
54 a claim submitted later than two years after the close of such school
55 year.] For claims for which payment is first to be made [in the nineteen
56 hundred ninety-seven--ninety-eight] PRIOR TO THE TWO THOUSAND

1 ELEVEN--TWO THOUSAND TWELVE school year [and thereafter], the commis-
2 sioner shall certify no payment to a school district based on a claim
3 submitted later than one year after the close of such school year.
4 Provided, however, no payments shall be barred or reduced where such
5 payment is required as a result of a final audit of the state. [It is
6 further provided that, until June thirtieth, nineteen hundred ninety-
7 six, the commissioner may grant a waiver from the provisions of this
8 section for any school district if it is in the best educational inter-
9 ests of the district pursuant to guidelines developed by the commis-
10 sioner and approved by the director of the budget.] FURTHER PROVIDED THAT
11 FOR ANY APPORTIONMENTS PROVIDED PURSUANT TO SECTIONS SEVEN HUNDRED ONE,
12 SEVEN HUNDRED ELEVEN, SEVEN HUNDRED FIFTY-ONE, SEVEN HUNDRED
13 FIFTY-THREE, THIRTY-SIX HUNDRED TWO, THIRTY-SIX HUNDRED TWO-B,
14 THIRTY-SIX HUNDRED TWO-C, THIRTY-SIX HUNDRED TWO-E, THIRTY-SIX HUNDRED
15 TWELVE, AND FORTY-FOUR HUNDRED FIVE OF THIS CHAPTER FOR THE TWO THOUSAND
16 TWELVE--TWO THOUSAND THIRTEEN AND PRIOR SCHOOL YEARS, THE COMMISSIONER
17 SHALL CERTIFY NO PAYMENT TO A SCHOOL DISTRICT, OTHER THAN PAYMENTS
18 PURSUANT TO SUBDIVISIONS SIX-A, ELEVEN, THIRTEEN AND FIFTEEN OF SECTION
19 THIRTY-SIX HUNDRED TWO OF THIS PART, IN EXCESS OF THE PAYMENT COMPUTED
20 BASED ON AN ELECTRONIC DATA FILE USED TO PRODUCE THE SCHOOL AID COMPUTER
21 LISTING PRODUCED BY THE COMMISSIONER IN SUPPORT OF THE EXECUTIVE BUDGET
22 REQUEST SUBMITTED FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN
23 STATE FISCAL YEAR AND ENTITLED "BT121-3", AND FURTHER PROVIDED THAT FOR
24 ANY APPORTIONMENTS PROVIDED PURSUANT TO SECTIONS SEVEN HUNDRED ONE,
25 SEVEN HUNDRED ELEVEN, SEVEN HUNDRED FIFTY-ONE, SEVEN HUNDRED
26 FIFTY-THREE, THIRTY-SIX HUNDRED TWO, THIRTY-SIX HUNDRED TWO-B,
27 THIRTY-SIX HUNDRED TWO-C, THIRTY-SIX HUNDRED TWO-E, THIRTY-SIX HUNDRED
28 TWELVE, AND FORTY-FOUR HUNDRED FIVE OF THIS CHAPTER FOR THE TWO THOUSAND
29 THIRTEEN--TWO THOUSAND FOURTEEN SCHOOL YEAR AND THEREAFTER, THE COMMIS-
30 SIONER SHALL CERTIFY NO PAYMENT TO A SCHOOL DISTRICT, OTHER THAN
31 PAYMENTS PURSUANT TO SUBDIVISIONS SIX-A, ELEVEN, THIRTEEN AND FIFTEEN OF
32 SECTION THIRTY-SIX HUNDRED TWO OF THIS PART, IN EXCESS OF THE PAYMENT
33 COMPUTED BASED ON AN ELECTRONIC DATA FILE USED TO PRODUCE THE SCHOOL AID
34 COMPUTER LISTING PRODUCED BY THE COMMISSIONER IN SUPPORT OF THE EXECU-
35 TIVE BUDGET REQUEST SUBMITTED FOR THE STATE FISCAL YEAR IN WHICH THE
36 SCHOOL YEAR COMMENCES.

37 b. Claims resulting from court orders or judgments. [Any] FOR CLAIMS
38 FOR WHICH PAYMENT IS FIRST TO BE MADE PRIOR TO THE TWO THOUSAND TWELVE-
39 -TWO THOUSAND THIRTEEN SCHOOL YEAR, ANY payment which would be due as
40 the result of a court order or judgment shall not be barred, provided
41 that, commencing January first, nineteen hundred ninety-six, such court
42 order or judgment and any other data required shall be filed with the
43 comptroller within one year from the date of the court order or judg-
44 ment, and provided further that the commissioner shall certify no
45 payment to a school district for a specific school year that is based on
46 a claim that results from a court order or judgement so filed with the
47 comptroller unless the total value of such claim, as determined by the
48 commissioner, is greater than one percent of the school district's total
49 revenues from state sources as previously recorded in the general fund
50 and reported to the comptroller in the annual financial report of the
51 school district for such school year.

52 S 9. The opening paragraph of section 3609-a of the education law, as
53 amended by section 40 of part A of chapter 58 of the laws of 2011, is
54 amended to read as follows:

55 For aid payable in the two thousand seven--two thousand eight school
56 year [and thereafter] THROUGH THE TWO THOUSAND ELEVEN--TWO THOUSAND

1 TWELVE SCHOOL YEAR, "moneys apportioned" shall mean the lesser of (i)
2 the sum of one hundred percent of the respective amount set forth for
3 each school district as payable pursuant to this section in the school
4 aid computer listing for the current year produced by the commissioner
5 in support of the budget which includes the appropriation for the gener-
6 al support for public schools for the prescribed payments and individ-
7 ualized payments due prior to April first for the current year plus the
8 apportionment payable during the current school year pursuant to subdi-
9 vision six-a and subdivision fifteen of section thirty-six hundred two
10 of this part minus any reductions to current year aids pursuant to
11 subdivision seven of section thirty-six hundred four of this part or any
12 deduction from apportionment payable pursuant to this chapter for
13 collection of a school district basic contribution as defined in subdi-
14 vision eight of section forty-four hundred one of this chapter, less any
15 grants provided pursuant to subparagraph two-a of paragraph b of subdi-
16 vision four of section ninety-two-c of the state finance law, less any
17 grants provided pursuant to subdivision twelve of section thirty-six
18 hundred forty-one of this article, or (ii) the apportionment calculated
19 by the commissioner based on data on file at the time the payment is
20 processed; provided however, that for the purposes of any payments made
21 pursuant to this section prior to the first business day of June of the
22 current year, moneys apportioned shall not include any aids payable
23 pursuant to subdivisions six and fourteen, if applicable, of section
24 thirty-six hundred two of this part as current year aid for debt service
25 on bond anticipation notes and/or bonds first issued in the current year
26 or any aids payable for full-day kindergarten for the current year
27 pursuant to subdivision nine of section thirty-six hundred two of this
28 part. The definitions of "base year" and "current year" as set forth in
29 subdivision one of section thirty-six hundred two of this part shall
30 apply to this section. For aid payable in the two thousand eleven--two
31 thousand twelve school year, reference to such "school aid computer
32 listing for the current year" shall mean the printouts entitled
33 "SA111-2". FOR AID PAYABLE IN THE TWO THOUSAND TWELVE--TWO THOUSAND
34 THIRTEEN SCHOOL YEAR AND THEREAFTER, "MONEYS APPORTIONED" SHALL MEAN THE
35 LESSER OF: (I) THE SUM OF ONE HUNDRED PERCENT OF THE RESPECTIVE AMOUNT
36 SET FORTH FOR EACH SCHOOL DISTRICT AS PAYABLE PURSUANT TO THIS SECTION
37 IN THE SCHOOL AID COMPUTER LISTING FOR THE CURRENT YEAR PRODUCED BY THE
38 COMMISSIONER IN SUPPORT OF THE EXECUTIVE BUDGET REQUEST WHICH INCLUDES
39 THE APPROPRIATION FOR THE GENERAL SUPPORT FOR PUBLIC SCHOOLS FOR THE
40 PRESCRIBED PAYMENTS AND INDIVIDUALIZED PAYMENTS DUE PRIOR TO APRIL FIRST
41 FOR THE CURRENT YEAR PLUS THE APPORTIONMENT PAYABLE DURING THE CURRENT
42 SCHOOL YEAR PURSUANT TO SUBDIVISIONS SIX-A AND FIFTEEN OF SECTION THIR-
43 TY-SIX HUNDRED TWO OF THIS PART MINUS ANY REDUCTIONS TO CURRENT YEAR
44 AIDS PURSUANT TO SUBDIVISION SEVEN OF SECTION THIRTY-SIX HUNDRED FOUR OF
45 THIS PART OR ANY DEDUCTION FROM THE APPORTIONMENT PAYABLE PURSUANT TO
46 THIS CHAPTER FOR COLLECTION OF A SCHOOL DISTRICT BASIC CONTRIBUTION AS
47 DEFINED IN SUBDIVISION EIGHT OF SECTION FORTY-FOUR HUNDRED ONE OF THIS
48 CHAPTER, LESS ANY GRANTS PROVIDED PURSUANT TO SUBPARAGRAPH TWO-A OF
49 PARAGRAPH B OF SUBDIVISION FOUR OF SECTION NINETY-TWO-C OF THE STATE
50 FINANCE LAW, LESS ANY GRANTS PROVIDED PURSUANT TO SUBDIVISION TWELVE OF
51 SECTION THIRTY-SIX HUNDRED FORTY-ONE OF THIS ARTICLE; OR (II) THE APPOR-
52 TIONMENT CALCULATED BY THE COMMISSIONER BASED ON DATA ON FILE AT THE
53 TIME THE PAYMENT IS PROCESSED; PROVIDED HOWEVER, THAT FOR THE PURPOSES
54 OF ANY PAYMENTS MADE PURSUANT TO THIS SECTION PRIOR TO THE FIRST BUSI-
55 NESS DAY OF JUNE OF THE CURRENT YEAR, MONEYS APPORTIONED SHALL NOT
56 INCLUDE ANY AIDS PAYABLE PURSUANT TO SUBDIVISIONS SIX AND FOURTEEN, IF

1 APPLICABLE, OF SECTION THIRTY-SIX HUNDRED TWO OF THIS PART AS CURRENT
2 YEAR AID FOR DEBT SERVICE ON BOND ANTICIPATION NOTES AND/OR BONDS FIRST
3 ISSUED IN THE CURRENT YEAR OR ANY AIDS PAYABLE FOR FULL-DAY KINDERGARTEN
4 FOR THE CURRENT YEAR PURSUANT TO SUBDIVISION NINE OF SECTION THIRTY-SIX
5 HUNDRED TWO OF THIS PART. THE DEFINITIONS OF "BASE YEAR" AND "CURRENT
6 YEAR" AS SET FORTH IN SUBDIVISION ONE OF SECTION THIRTY-SIX HUNDRED TWO
7 OF THIS PART SHALL APPLY TO THIS SECTION.

8 S 10. Paragraph b of subdivision 2 of section 3612 of the education
9 law, as amended by section 46 of part A of chapter 58 of the laws of
10 2011, is amended to read as follows:

11 b. Such grants shall be awarded to school districts, within the limits
12 of funds appropriated therefor, through a competitive process that takes
13 into consideration the magnitude of any shortage of teachers in the
14 school district, the number of teachers employed in the school district
15 who hold temporary licenses to teach in the public schools of the state,
16 the number of provisionally certified teachers, the fiscal capacity and
17 geographic sparsity of the district, the number of new teachers the
18 school district intends to hire in the coming school year and the number
19 of summer in the city student internships proposed by an eligible school
20 district, if applicable. Grants provided pursuant to this section shall
21 be used only for the purposes enumerated in this section. Notwithstand-
22 ing any other provision of law to the contrary, a city school district
23 in a city having a population of one million or more inhabitants receiv-
24 ing a grant pursuant to this section may use no more than eighty percent
25 of such grant funds for any recruitment, retention and certification
26 costs associated with transitional certification of teacher candidates
27 for the school years two thousand one--two thousand two through [two
28 thousand eleven--two thousand twelve] TWO THOUSAND TWELVE--TWO THOUSAND
29 THIRTEEN.

30 S 11. Paragraph c of subdivision 2 of section 3623-a of the education
31 law, as amended by chapter 453 of the laws of 2005, is amended to read
32 as follows:

33 c. The purchase of equipment deemed a proper school district expense,
34 PROVIDED, HOWEVER THAT SUCH PURCHASE SHALL BE SUBJECT TO THE APPROVAL OF
35 THE COMMISSIONER AFTER JUNE THIRTIETH, TWO THOUSAND TWELVE, including:
36 (i) the purchase of two-way radios to be used on old and new school
37 buses, (ii) the purchase of stop-arms, to be used on old and new school
38 buses, (iii) the purchase and installation of seat safety belts on
39 school buses in accordance with the provisions of section thirty-six
40 hundred thirty-five-a of this article, (iv) the purchase of school bus
41 back up beepers, (v) the purchase of school bus front crossing arms,
42 (vi) the purchase of school bus safety sensor devices, (vii) the
43 purchase and installation of exterior reflective marking on school
44 buses, (viii) the purchase of automatic engine fire extinguishing
45 systems for school buses used to transport students who use wheelchairs
46 or other assistive mobility devices, and (ix) the purchase of other
47 equipment as prescribed in the regulations of the commissioner; and

48 S 11-a. Subparagraph 1 of paragraph a of subdivision 5 of section 3641
49 of the education law, as added by section 1 of part B of chapter 58 of
50 the laws of 2011, is amended to read as follows:

51 (1) Such plan shall include but not be limited to: the process by
52 which a request for proposals is developed; the scoring rubric by which
53 such proposals will be evaluated; the form and manner by which applica-
54 tions will be submitted; the manner by which calculation of the amount
55 of the award was determined, including establishing benchmarks based on
56 actual cost savings that must be met before any awards are paid; and the

1 timeline for the issuance and review of applications to ensure that
2 grants will be first awarded [during] WITHIN ONE HUNDRED AND TWENTY DAYS
3 FOLLOWING THE END OF the two thousand eleven--two thousand twelve school
4 year.

5 S 11-b. Paragraphs d and e of subdivision 5 of section 3641 of the
6 education law are relettered paragraphs e and f and a new paragraph d is
7 added to read as follows:

8 D. A SCHOOL DISTRICT THAT SUBMITS DOCUMENTATION THAT HAS BEEN APPROVED
9 BY THE COMMISSIONER BY SEPTEMBER 1, 2012 DEMONSTRATING THAT IT HAS FULLY
10 IMPLEMENTED NEW STANDARDS AND PROCEDURES FOR CONDUCTING ANNUAL PROFES-
11 SIONAL PERFORMANCE REVIEWS OF CLASSROOM TEACHERS AND BUILDING PRINCIPALS
12 TO DETERMINE TEACHER AND PRINCIPAL EFFECTIVENESS, SHALL RECEIVE BONUS
13 POINTS IN THE SCORING OF ITS GRANT APPLICATION.

14 S 12. Subdivision 6 of section 4402 of the education law, as amended
15 by section 58 of part A of chapter 58 of the laws of 2011, is amended to
16 read as follows:

17 6. Notwithstanding any other law, rule or regulation to the contrary,
18 the board of education of a city school district with a population of
19 one hundred twenty-five thousand or more inhabitants shall be permitted
20 to establish maximum class sizes for special classes for certain
21 students with disabilities in accordance with the provisions of this
22 subdivision. For the purpose of obtaining relief from any adverse fiscal
23 impact from under-utilization of special education resources due to low
24 student attendance in special education classes at the middle and
25 secondary level as determined by the commissioner, such boards of educa-
26 tion shall, during the school years nineteen hundred ninety-five--nine-
27 ty-six through June thirtieth, two thousand [twelve] THIRTEEN of the
28 [two thousand eleven--two thousand twelve] TWO THOUSAND TWELVE--TWO
29 THOUSAND THIRTEEN school year, be authorized to increase class sizes in
30 special classes containing students with disabilities whose age ranges
31 are equivalent to those of students in middle and secondary schools as
32 defined by the commissioner for purposes of this section by up to but
33 not to exceed one and two tenths times the applicable maximum class size
34 specified in regulations of the commissioner rounded up to the nearest
35 whole number, provided that in a city school district having a popu-
36 lation of one million or more, classes that have a maximum class size of
37 fifteen may be increased by no more than one student and provided that
38 the projected average class size shall not exceed the maximum specified
39 in the applicable regulation, provided that such authorization shall
40 terminate on June thirtieth, two thousand. Such authorization shall be
41 granted upon filing of a notice by such a board of education with the
42 commissioner stating the board's intention to increase such class sizes
43 and a certification that the board will conduct a study of attendance
44 problems at the secondary level and will implement a corrective action
45 plan to increase the rate of attendance of students in such classes to
46 at least the rate for students attending regular education classes in
47 secondary schools of the district. Such corrective action plan shall be
48 submitted for approval by the commissioner by a date during the school
49 year in which such board increases class sizes as provided pursuant to
50 this subdivision to be prescribed by the commissioner. Upon at least
51 thirty days notice to the board of education, after conclusion of the
52 school year in which such board increases class sizes as provided pursu-
53 ant to this subdivision, the commissioner shall be authorized to termi-
54 nate such authorization upon a finding that the board has failed to
55 develop or implement an approved corrective action plan.

1 S 13. Subdivision b of section 2 of chapter 756 of the laws of 1992,
2 relating to funding a program for work force education conducted by the
3 consortium for worker education in New York city, as amended by section
4 65 of part A of chapter 58 of the laws of 2011, is amended to read as
5 follows:

6 b. Reimbursement for programs approved in accordance with subdivision
7 a of this section [for the 2008-09 school year shall not exceed 62.8
8 percent of the lesser of such approvable costs per contact hour or ten
9 dollars and sixty-five cents per contact hour, reimbursement] for the
10 2009-10 school year shall not exceed 64.1 percent of the lesser of such
11 approvable costs per contact hour or eleven dollars and fifty cents per
12 contact hour, reimbursement for the 2010--2011 school year shall not
13 exceed 62.6 percent of the lesser of such approvable costs per contact
14 hour or twelve dollars and five cents per contact hour [and], reimburse-
15 ment for the 2011--2012 school year shall not exceed 62.9 percent of the
16 lesser of such approvable costs per contact hour or twelve dollars and
17 fifteen cents per contact hour, AND REIMBURSEMENT FOR THE 2012--2013
18 SCHOOL YEAR SHALL NOT EXCEED 63.2 PERCENT OF THE LESSER OF SUCH APPROVA-
19 BLE COSTS PER CONTACT HOUR OR TWELVE DOLLARS AND FORTY CENTS PER CONTACT
20 HOUR, where a contact hour represents sixty minutes of instruction
21 services provided to an eligible adult. Notwithstanding any other
22 provision of law to the contrary, [for the 2008-09 school year such
23 contact hours shall not exceed one million nine hundred forty-six thou-
24 sand one hundred seven (1,946,107) hours; whereas] for the 2009-10
25 school year such contact hours shall not exceed one million seven
26 hundred sixty-three thousand nine hundred seven (1,763,907) hours; wher-
27 eas for the 2010--2011 school year such contact hours shall not exceed
28 one million five hundred twenty-five thousand one hundred ninety-eight
29 (1,525,198) hours; whereas for the 2011--2012 school year such contact
30 hours shall not exceed one million seven hundred one thousand five
31 hundred seventy (1,701,570) hours; WHEREAS FOR THE 2012--2013 SCHOOL
32 YEAR SUCH CONTACT HOURS SHALL NOT EXCEED ONE MILLION FOUR HUNDRED
33 SIXTY-EIGHT THOUSAND SEVEN HUNDRED TEN (1,468,710) HOURS. Notwithstand-
34 ing any other provision of law to the contrary, the apportionment calcu-
35 lated for the city school district of the city of New York pursuant to
36 subdivision 11 of section 3602 of the education law shall be computed as
37 if such contact hours provided by the consortium for worker education,
38 not to exceed the contact hours set forth herein, were eligible for aid
39 in accordance with the provisions of such subdivision 11 of section 3602
40 of the education law.

41 S 14. Section 4 of chapter 756 of the laws of 1992, relating to fund-
42 ing a program for work force education conducted by the consortium for
43 worker education in New York city, is amended by adding a new subdivi-
44 sion q to read as follows:

45 Q. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY AFTER THE
46 COMPLETION OF PAYMENTS FOR THE 2012--2013 SCHOOL YEAR. NOTWITHSTANDING
47 ANY INCONSISTENT PROVISIONS OF LAW, THE COMMISSIONER OF EDUCATION SHALL
48 WITHHOLD A PORTION OF EMPLOYMENT PREPARATION EDUCATION AID DUE TO THE
49 CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK TO SUPPORT A PORTION OF THE
50 COSTS OF THE WORK FORCE EDUCATION PROGRAM. SUCH MONEYS SHALL BE CREDITED
51 TO THE ELEMENTARY AND SECONDARY EDUCATION FUND-LOCAL ASSISTANCE ACCOUNT
52 AND SHALL NOT EXCEED ELEVEN MILLION FIVE HUNDRED THOUSAND DOLLARS
53 (\$11,500,000).

54 S 15. Section 6 of chapter 756 of the laws of 1992, relating to fund-
55 ing a program for work force education conducted by the consortium for

1 worker education in New York city, as amended by section 67 of part A of
2 chapter 58 of the laws of 2011, is amended to read as follows:

3 S 6. This act shall take effect July 1, 1992, and shall be deemed
4 repealed on June 30, [2012] 2013.

5 S 16. Subdivision 1 of section 167 of chapter 169 of the laws of 1994,
6 relating to certain provisions related to the 1994-95 state operations,
7 aid to localities, capital projects and debt service budgets, as amended
8 by section 68 of part A of chapter 58 of the laws of 2011, is amended to
9 read as follows:

10 1. Sections one through seventy of this act shall be deemed to have
11 been in full force and effect as of April 1, 1994 provided, however,
12 that sections one, two, twenty-four, twenty-five and twenty-seven
13 through seventy of this act shall expire and be deemed repealed on March
14 31, 2000; provided, however, that section twenty of this act shall apply
15 only to hearings commenced prior to September 1, 1994, and provided
16 further that section twenty-six of this act shall expire and be deemed
17 repealed on March 31, 1997; and provided further that sections four
18 through fourteen, sixteen, and eighteen, nineteen and twenty-one through
19 twenty-one-a of this act shall expire and be deemed repealed on March
20 31, 1997; and provided further that sections three, fifteen, seventeen,
21 twenty, twenty-two and twenty-three of this act shall expire and be
22 deemed repealed on March 31, [2013] 2014.

23 S 17. Subdivision 6-a of section 140 of chapter 82 of the laws of
24 1995, amending the education law and certain other laws relating to
25 state aid to school districts and the appropriation of funds for the
26 support of government, as amended by section 51 of part B of chapter 57
27 of the laws of 2007, is amended to read as follows:

28 (6-a) Section seventy-three of this act shall take effect July 1, 1995
29 and shall be deemed repealed June 30, [2012] 2017;

30 S 18. Subdivisions 22 and 24 of section 140 of chapter 82 of the laws
31 of 1995, amending the education law and certain other laws relating to
32 state aid to school districts and the appropriation of funds for the
33 support of government, as amended by section 69 of part A of chapter 58
34 of the laws of 2011, are amended to read as follows:

35 (22) sections one hundred twelve, one hundred thirteen, one hundred
36 fourteen, one hundred fifteen and one hundred sixteen of this act shall
37 take effect on July 1, 1995; provided, however, that section one hundred
38 thirteen of this act shall remain in full force and effect until July 1,
39 [2012] 2013 at which time it shall be deemed repealed;

40 (24) sections one hundred eighteen through one hundred thirty of this
41 act shall be deemed to have been in full force and effect on and after
42 July 1, 1995; provided further, however, that the amendments made pursu-
43 ant to section one hundred nineteen of this act shall be deemed to be
44 repealed on and after July 1, [2012] 2013;

45 S 19. Section 4 of chapter 698 of the laws of 1996, amending the
46 education law relating to transportation contracts, as amended by chap-
47 ter 165 of the laws of 2007, is amended to read as follows:

48 S 4. This act shall take effect immediately, and shall expire and be
49 deemed repealed on and after June 30, [2012] 2017.

50 S 20. Section 12 of chapter 147 of the laws of 2001, amending the
51 education law relating to conditional appointment of school district,
52 charter school or BOCES employees, as amended by section 72 of part A of
53 chapter 58 of the laws of 2011, is amended to read as follows:

54 S 12. This act shall take effect on the same date as chapter 180 of
55 the laws of 2000 takes effect, and shall expire July 1, [2012] 2013 when
56 upon such date the provisions of this act shall be deemed repealed.

1 S 21. Section 4 of chapter 425 of the laws of 2002, amending the
2 education law relating to the provision of supplemental educational
3 services, attendance at a safe public school and the suspension of
4 pupils who bring a firearm to or possess a firearm at a school, as
5 amended by section 73 of part A of chapter 58 of the laws of 2011, is
6 amended to read as follows:

7 S 4. This act shall take effect July 1, 2002 and shall expire and be
8 deemed repealed June 30, [2012] 2013.

9 S 22. Section 5 of chapter 101 of the laws of 2003, amending the
10 education law relating to implementation of the No Child Left Behind Act
11 of 2001, as amended by section 74 of part A of chapter 58 of the laws of
12 2011, is amended to read as follows:

13 S 5. This act shall take effect immediately; provided that sections
14 one, two and three of this act shall expire and be deemed repealed on
15 June 30, [2012] 2013.

16 S 23. Subdivision 4 of section 51 of part B of chapter 57 of the laws
17 of 2008, amending the education law relating to the universal pre-kin-
18 dergarten program, as amended by chapter 2 of the laws of 2011, is
19 amended to read as follows:

20 4. section 23 of this act shall take effect July 1, 2008 and shall
21 expire and be deemed repealed June 30, [2012] 2013;

22 S 24. School bus driver training. In addition to apportionments other-
23 wise provided by section 3602 of the education law, for aid payable in
24 the 2012--13 school year, the commissioner of education shall allocate
25 school bus driver training grants to school districts and boards of
26 cooperative education services pursuant to sections 3650-a, 3650-b and
27 3650-c of the education law, or for contracts directly with not-for-pro-
28 fit educational organizations for the purposes of this section. Such
29 payments shall not exceed four hundred thousand dollars (\$400,000) per
30 school year.

31 S 25. Support of public libraries. The moneys appropriated for the
32 support of public libraries by the chapter of the laws of 2012 enacting
33 the aid to localities budget shall be apportioned for the 2012--13 state
34 fiscal year in accordance with the provisions of sections 271, 272, 273,
35 282, 284, and 285 of the education law as amended by the provisions of
36 this act, provided that library construction aid pursuant to section
37 273-a of the education law shall not be payable from the appropriations
38 for the support of public libraries and provided further that no
39 library, library system or program, as defined by the commissioner of
40 education, shall receive less total system or program aid than it
41 received for the year 2001--2002 except as a result of a reduction
42 adjustment necessary to conform to the appropriations for support of
43 public libraries.

44 Notwithstanding any other provision of law to the contrary the moneys
45 appropriated for the support of public libraries for the year 2012--2013
46 by a chapter of the laws of 2012 enacting the aid to localities budget
47 shall fulfill the state's obligation to provide such aid and, pursuant
48 to a plan developed by the commissioner of education and approved by the
49 director of the budget, the aid payable to libraries and library systems
50 pursuant to such appropriations shall be reduced proportionately to
51 assure that the total amount of aid payable does not exceed the total
52 appropriations for such purpose.

53 S 26. Special apportionment for salary expenses. a. Notwithstanding
54 any other provision of law, upon application to the commissioner of
55 education, not sooner than the first day of the second full business
56 week of June, 2013 and not later than the last day of the third full

1 business week of June, 2013, a school district eligible for an appor-
2 tionment pursuant to section 3602 of the education law shall be eligible
3 to receive an apportionment pursuant to this section, for the school
4 year ending June 30, 2013, for salary expenses incurred between April 1
5 and June 30, 2013 and such apportionment shall not exceed the sum of (i)
6 the deficit reduction assessment of 1990--91 as determined by the
7 commissioner of education, pursuant to paragraph f of subdivision 1 of
8 section 3602 of the education law, as in effect through June 30, 1993,
9 plus (ii) 186 percent of such amount for a city school district in a
10 city with a population in excess of 1,000,000 inhabitants, plus (iii)
11 209 percent of such amount for a city school district in a city with a
12 population of more than 195,000 inhabitants and less than 219,000 inhab-
13 itants according to the latest federal census plus (iv) the net gap
14 elimination adjustment for 2010--2011, as determined by the commissioner
15 of education pursuant to chapter 53 of the laws of 2010, plus (v) the
16 gap elimination adjustment for 2011--12 as determined by the commission-
17 er of education pursuant to subdivision 17 of section 3602 of the educa-
18 tion law, and provided further that such apportionment shall not exceed
19 such salary expenses. Such application shall be made by a school
20 district, after the board of education or trustees have adopted a resol-
21 ution to do so and in the case of a city school district in a city with
22 a population in excess of 125,000 inhabitants, with the approval of the
23 mayor of such city.

24 b. The claim for an apportionment to be paid to a school district
25 pursuant to subdivision a of this section shall be submitted to the
26 commissioner of education on a form prescribed for such purpose, and
27 shall be payable upon determination by such commissioner that the form
28 has been submitted as prescribed. Such approved amounts shall be payable
29 on the same day in September of the school year following the year in
30 which application was made as funds provided pursuant to subparagraph
31 (4) of paragraph b of subdivision 4 of section 92-c of the state finance
32 law, on the audit and warrant of the state comptroller on vouchers
33 certified or approved by the commissioner of education in the manner
34 prescribed by law from moneys in the state lottery fund and from the
35 general fund to the extent that the amount paid to a school district
36 pursuant to this section exceeds the amount, if any, due such school
37 district pursuant to subparagraph (2) of paragraph a of subdivision 1 of
38 section 3609-a of the education law in the school year following the
39 year in which application was made.

40 c. Notwithstanding the provisions of section 3609-a of the education
41 law, an amount equal to the amount paid to a school district pursuant to
42 subdivisions a and b of this section shall first be deducted from the
43 following payments due the school district during the school year
44 following the year in which application was made pursuant to subpara-
45 graphs (1), (2), (3), (4) and (5) of paragraph a of subdivision 1 of
46 section 3609-a of the education law in the following order: the lottery
47 apportionment payable pursuant to subparagraph (2) of such paragraph
48 followed by the fixed fall payments payable pursuant to subparagraph (4)
49 of such paragraph and then followed by the district's payments to the
50 teachers' retirement system pursuant to subparagraph (1) of such para-
51 graph, and any remainder to be deducted from the individualized payments
52 due the district pursuant to paragraph b of such subdivision shall be
53 deducted on a chronological basis starting with the earliest payment due
54 the district.

55 S 27. Special apportionment for public pension accruals. a. Notwith-
56 standing any other provision of law, upon application to the commission-

1 er of education, not later than June 30, 2013, a school district eligi-
2 ble for an apportionment pursuant to section 3602 of the education law
3 shall be eligible to receive an apportionment pursuant to this section,
4 for the school year ending June 30, 2013 and such apportionment shall
5 not exceed the additional accruals required to be made by school
6 districts in the 2004--05 and 2005--06 school years associated with
7 changes for such public pension liabilities. The amount of such addi-
8 tional accrual shall be certified to the commissioner of education by
9 the president of the board of education or the trustees or, in the case
10 of a city school district in a city with a population in excess of
11 125,000 inhabitants, the mayor of such city. Such application shall be
12 made by a school district, after the board of education or trustees have
13 adopted a resolution to do so and in the case of a city school district
14 in a city with a population in excess of 125,000 inhabitants, with the
15 approval of the mayor of such city.

16 b. The claim for an apportionment to be paid to a school district
17 pursuant to subdivision a of this section shall be submitted to the
18 commissioner of education on a form prescribed for such purpose, and
19 shall be payable upon determination by such commissioner that the form
20 has been submitted as prescribed. Such approved amounts shall be payable
21 on the same day in September of the school year following the year in
22 which application was made as funds provided pursuant to subparagraph
23 (4) of paragraph b of subdivision 4 of section 92-c of the state finance
24 law, on the audit and warrant of the state comptroller on vouchers
25 certified or approved by the commissioner of education in the manner
26 prescribed by law from moneys in the state lottery fund and from the
27 general fund to the extent that the amount paid to a school district
28 pursuant to this section exceeds the amount, if any, due such school
29 district pursuant to subparagraph (2) of paragraph a of subdivision 1 of
30 section 3609-a of the education law in the school year following the
31 year in which application was made.

32 c. Notwithstanding the provisions of section 3609-a of the education
33 law, an amount equal to the amount paid to a school district pursuant to
34 subdivisions a and b of this section shall first be deducted from the
35 following payments due the school district during the school year
36 following the year in which application was made pursuant to subpara-
37 graphs (1), (2), (3), (4) and (5) of paragraph a of subdivision 1 of
38 section 3609-a of the education law in the following order: the lottery
39 apportionment payable pursuant to subparagraph (2) of such paragraph
40 followed by the fixed fall payments payable pursuant to subparagraph (4)
41 of such paragraph and then followed by the district's payments to the
42 teachers' retirement system pursuant to subparagraph (1) of such para-
43 graph, and any remainder to be deducted from the individualized payments
44 due the district pursuant to paragraph b of such subdivision shall be
45 deducted on a chronological basis starting with the earliest payment due
46 the district.

47 S 28. a. Notwithstanding any other law, rule or regulation to the
48 contrary, any moneys appropriated to the state education department may
49 be suballocated to other state departments or agencies, as needed, to
50 accomplish the intent of the specific appropriations contained therein.

51 b. Notwithstanding any other law, rule or regulation to the contrary,
52 moneys appropriated to the state education department from the general
53 fund/aid to localities, local assistance account-001, shall be for
54 payment of financial assistance, as scheduled, net of disallowances,
55 refunds, reimbursement and credits.

1 c. Notwithstanding any other law, rule or regulation to the contrary,
2 all moneys appropriated to the state education department for aid to
3 localities shall be available for payment of aid heretofore or hereafter
4 to accrue and may be suballocated to other departments and agencies to
5 accomplish the intent of the specific appropriations contained therein.

6 d. Notwithstanding any other law, rule or regulation to the contrary,
7 moneys appropriated to the state education department for general
8 support for public schools may be interchanged with any other item of
9 appropriation for general support for public schools within the general
10 fund local assistance account office of prekindergarten through grade
11 twelve education programs.

12 S 29. Notwithstanding the provision of any law, rule, or regulation to
13 the contrary, the city school district of the city of Rochester, upon
14 the consent of the board of cooperative educational services of the
15 supervisory district serving its geographic region may purchase from
16 such board for the 2012--13 school year, as a non-component school
17 district, services required by article 19 of the education law.

18 S 30. The amounts specified in this section shall be a setaside from
19 the state funds which each such district is receiving from the total
20 foundation aid:

21 a. for the purpose of the development, maintenance or expansion of
22 magnet schools or magnet school programs for the 2012--2013 school year.
23 To the city school district of the city of New York there shall be paid
24 forty-eight million one hundred seventy-five thousand dollars
25 (\$48,175,000) including five hundred thousand dollars (\$500,000) for the
26 Andrew Jackson High School; to the Buffalo city school district, twen-
27 ty-one million twenty-five thousand dollars (\$21,025,000); to the
28 Rochester city school district, fifteen million dollars (\$15,000,000);
29 to the Syracuse city school district, thirteen million dollars
30 (\$13,000,000); to the Yonkers city school district, forty-nine million
31 five hundred thousand dollars (\$49,500,000); to the Newburgh city school
32 district, four million six hundred forty-five thousand dollars
33 (\$4,645,000); to the Poughkeepsie city school district, two million four
34 hundred seventy-five thousand dollars (\$2,475,000); to the Mount Vernon
35 city school district, two million dollars (\$2,000,000); to the New
36 Rochelle city school district, one million four hundred ten thousand
37 dollars (\$1,410,000); to the Schenectady city school district, one
38 million eight hundred thousand dollars (\$1,800,000); to the Port Chester
39 city school district, one million one hundred fifty thousand dollars
40 (\$1,150,000); to the White Plains city school district, nine hundred
41 thousand dollars (\$900,000); to the Niagara Falls city school district,
42 six hundred thousand dollars (\$600,000); to the Albany city school
43 district, three million five hundred fifty thousand dollars
44 (\$3,550,000); to the Utica city school district, two million dollars
45 (\$2,000,000); to the Beacon city school district, five hundred sixty-six
46 thousand dollars (\$566,000); to the Middletown city school district,
47 four hundred thousand dollars (\$400,000); to the Freeport union free
48 school district, four hundred thousand dollars (\$400,000); to the Green-
49 burgh central school district, three hundred thousand dollars
50 (\$300,000); to the Amsterdam city school district, eight hundred thou-
51 sand dollars (\$800,000); to the Peekskill city school district, two
52 hundred thousand dollars (\$200,000); and to the Hudson city school
53 district, four hundred thousand dollars (\$400,000).

54 b. notwithstanding the provisions of subdivision a of this section, a
55 school district receiving a grant pursuant to this section may use such
56 grant funds for: (i) any instructional or instructional support costs

1 associated with the operation of a magnet school; or (ii) any instruc-
2 tional or instructional support costs associated with implementation of
3 an alternative approach to reduction of racial isolation and/or enhance-
4 ment of the instructional program and raising of standards in elementary
5 and secondary schools of school districts having substantial concen-
6 trations of minority students. The commissioner of education shall not
7 be authorized to withhold magnet grant funds from a school district that
8 used such funds in accordance with this paragraph, notwithstanding any
9 inconsistency with a request for proposals issued by such commissioner.

10 c. for the purpose of attendance improvement and dropout prevention
11 for the 2012--2013 school year, for any city school district in a city
12 having a population of more than one million, the setaside for attend-
13 ance improvement and dropout prevention shall equal the amount set aside
14 in the year prior to the base year. For the 2012--2013 school year, it
15 is further provided that any city school district in a city having a
16 population of more than one million shall allocate at least one-third of
17 any increase from base year levels in funds set aside pursuant to the
18 requirements of this subdivision to community-based organizations. Any
19 increase required pursuant to this subdivision to community-based organ-
20 izations must be in addition to allocations provided to community-based
21 organizations in the base year.

22 d. for the purpose of teacher support for the 2012--2013 school year:
23 to the city school district of the city of New York, sixty-two million
24 seven hundred seven thousand dollars (\$62,707,000); to the Buffalo city
25 school district, one million seven hundred forty-one thousand dollars
26 (\$1,741,000); to the Rochester city school district, one million seven-
27 ty-six thousand dollars (\$1,076,000); to the Yonkers city school
28 district, one million one hundred forty-seven thousand dollars
29 (\$1,147,000); and to the Syracuse city school district, eight hundred
30 nine thousand dollars (\$809,000). All funds made available to a school
31 district pursuant to this subdivision shall be distributed among teach-
32 ers including prekindergarten teachers and teachers of adult vocational
33 and academic subjects in accordance with this subdivision and shall be
34 in addition to salaries heretofore or hereafter negotiated or made
35 available; provided, however, that all funds distributed pursuant to
36 this section for the current year shall be deemed to incorporate all
37 funds distributed pursuant to former subdivision 27 of section 3602 of
38 the education law for prior years. In school districts where the teach-
39 ers are represented by certified or recognized employee organizations,
40 all salary increases funded pursuant to this section shall be determined
41 by separate collective negotiations conducted pursuant to the provisions
42 and procedures of article 14 of the civil service law, notwithstanding
43 the existence of a negotiated agreement between a school district and a
44 certified or recognized employee organization.

45 S 31. a. Notwithstanding any other provision of law to the contrary,
46 the actions or omissions of any school district which failed to submit a
47 final building project cost report by June 30 of the school year follow-
48 ing June 30 of the school year in which the certificate of substantial
49 completion of the project is issued by the architect or engineer, or six
50 months after issuance of such certificate, whichever is later, are here-
51 by ratified and validated, provided that such building project was
52 eligible for aid in a year for which the commissioner is required to
53 prepare an estimate of apportionments due and owing pursuant to para-
54 graph c of subdivision 21 of section 305 of the education law, provided
55 further that such school district submits a final cost report on or
56 before December 31, 2012 and such report is approved by the commissioner

1 of education, and provided further that any amount due and payable for
2 school years prior to the 2013-14 school year as a result of this act
3 shall be paid pursuant to the provisions of paragraph c of subdivision 5
4 of section 3604 of the education law.

5 b. Notwithstanding any other provision of law to the contrary, any
6 pending payment of moneys due to such district as a prior year adjust-
7 ment payable pursuant to paragraph c of subdivision 5 of section 3604 of
8 the education law for aid claims that had been previously paid in excess
9 as current year aid payments and for which recovery of excess payments
10 is to be made pursuant to this act, shall be reduced by any remaining
11 unrecovered balance of such excess payments, and the remaining scheduled
12 deductions of such excess payments pursuant to this act shall be reduced
13 by the commissioner of education to reflect the amount so recovered.

14 c. The education department is hereby directed to adjust the approved
15 costs of the aforementioned projects on a pro-rata basis to reflect the
16 number of years between June 30 of the school year following June 30 of
17 the school year in which the certificate of substantial completion of
18 the project is issued by the architect or engineer, or six months after
19 issuance of such certificate, whichever is later and the date upon which
20 the district filed a final cost report as a proportion of the useful
21 life of the project, and to consider such adjusted approved costs as
22 valid and proper obligations of such school districts.

23 S 32. Severability. The provisions of this act shall be severable, and
24 if the application of any clause, sentence, paragraph, subdivision,
25 section or part of this act to any person or circumstance shall be
26 adjudged by any court of competent jurisdiction to be invalid, such
27 judgment shall not necessarily affect, impair or invalidate the applica-
28 tion of any such clause, sentence, paragraph, subdivision, section, part
29 of this act or remainder thereof, as the case may be, to any other
30 person or circumstance, but shall be confined in its operation to the
31 clause, sentence, paragraph, subdivision, section or part thereof
32 directly involved in the controversy in which such judgment shall have
33 been rendered.

34 S 33. This act shall take effect immediately, and shall be deemed to
35 have been in full force and effect on and after April 1, 2012, provided,
36 however, that:

37 1. Section three of this act shall be deemed to have been in full
38 force and effect on and after July 1, 2006;

39 2. Sections six, nine, ten, twelve, thirteen, fourteen, twenty-four
40 and thirty of this act shall take effect July 1, 2012;

41 3. The amendments to subdivision 6 of section 4402 of the education
42 law made by section twelve of this act shall not affect the repeal of
43 such subdivision and shall be deemed repealed therewith;

44 4. The amendments to chapter 756 of the laws of 1992, relating to
45 funding a program for work force education conducted by a consortium for
46 worker education in New York city, made by sections thirteen and four-
47 teen of this act shall not affect the repeal of such chapter and shall
48 be deemed repealed therewith; and

49 5. Section twenty-eight of this act shall expire and be deemed
50 repealed June 30, 2013.

51 PART A-1

52 Section 1. Subdivision 1 of section 3012-c of the education law, as
53 added by chapter 103 of the laws of 2010, is amended to read as follows:

1 1. Notwithstanding any other provision of law, rule or regulation to
2 the contrary, the annual professional performance reviews of all class-
3 room teachers and building principals employed by school districts or
4 boards of cooperative educational services shall be conducted in accord-
5 ance with the provisions of this section. Such performance reviews which
6 are conducted on or after July first, two thousand eleven, or on or
7 after the date specified in paragraph c of subdivision two of this
8 section where applicable, shall include measures of student achievement
9 and be conducted in accordance with this section. Such annual profes-
10 sional performance reviews shall be a significant factor for employment
11 decisions including but not limited to, promotion, retention, tenure
12 determination, termination, and supplemental compensation, which deci-
13 sions are to be made in accordance with locally developed procedures
14 negotiated pursuant to the requirements of article fourteen of the civil
15 service law WHERE APPLICABLE. PROVIDED, HOWEVER, THAT NOTHING IN THIS
16 SECTION SHALL BE CONSTRUED TO AFFECT THE STATUTORY RIGHT OF A SCHOOL
17 DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES TO TERMINATE A
18 PROBATIONARY TEACHER OR PRINCIPAL FOR STATUTORILY AND CONSTITUTIONALLY
19 PERMISSIBLE REASONS OTHER THAN THE PERFORMANCE OF THE TEACHER OR PRINCI-
20 PAL IN THE CLASSROOM OR SCHOOL, INCLUDING BUT NOT LIMITED TO MISCONDUCT.
21 Such performance reviews shall also be a significant factor in teacher
22 and principal development, including but not limited to, coaching,
23 induction support and differentiated professional development, which are
24 to be locally established in accordance with procedures negotiated
25 pursuant to the requirements of article fourteen of the civil service
26 law.

27 S 2. Paragraph a of subdivision 2 of section 3012-c of the education
28 law, as added by chapter 103 of the laws of 2010, is amended to read as
29 follows:

30 a. (1) The annual professional performance reviews conducted pursuant
31 to this section for classroom teachers and building principals shall
32 differentiate teacher and principal effectiveness using the following
33 quality rating categories: highly effective, effective, developing and
34 ineffective, with explicit minimum and maximum scoring ranges for each
35 category, FOR THE STATE ASSESSMENTS AND OTHER COMPARABLE MEASURES
36 SUBCOMPONENT OF THE EVALUATION AND FOR THE LOCALLY SELECTED MEASURES OF
37 STUDENT ACHIEVEMENT SUBCOMPONENT OF THE EVALUATION, as prescribed in the
38 regulations of the commissioner. THERE SHALL BE: (I) A STATE ASSESSMENTS
39 AND OTHER COMPARABLE MEASURES SUBCOMPONENT WHICH SHALL COMPRISE TWENTY
40 OR TWENTY-FIVE PERCENT OF THE EVALUATION; (II) A LOCALLY SELECTED MEAS-
41 URES OF STUDENT ACHIEVEMENT SUBCOMPONENT WHICH SHALL COMPRISE TWENTY OR
42 FIFTEEN PERCENT OF THE EVALUATION; AND (III) AN OTHER MEASURES OF TEACH-
43 ER OR PRINCIPAL EFFECTIVENESS SUBCOMPONENT WHICH SHALL COMPRISE THE
44 REMAINING SIXTY PERCENT OF THE EVALUATION, WHICH IN SUM SHALL CONSTITUTE
45 THE COMPOSITE TEACHER OR PRINCIPAL EFFECTIVENESS SCORE. Such annual
46 professional performance reviews shall result in a single composite
47 teacher or principal effectiveness score, which incorporates multiple
48 measures of effectiveness related to the criteria included in the regu-
49 lations of the commissioner.

50 (2) FOR ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED IN ACCORD-
51 ANCE WITH PARAGRAPH B OF THIS SUBDIVISION FOR THE TWO THOUSAND
52 ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR AND FOR ANNUAL PROFESSIONAL
53 PERFORMANCE REVIEWS CONDUCTED IN ACCORDANCE WITH PARAGRAPHS F AND G OF
54 THIS SUBDIVISION FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN
55 SCHOOL YEAR, THE OVERALL COMPOSITE SCORING RANGES SHALL BE IN ACCORDANCE

WITH THIS SUBPARAGRAPH. A CLASSROOM TEACHER AND BUILDING PRINCIPAL SHALL BE DEEMED TO BE:

(A) HIGHLY EFFECTIVE IF THEY ACHIEVE A COMPOSITE EFFECTIVENESS SCORE OF 91-100.

(B) EFFECTIVE IF THEY ACHIEVE A COMPOSITE EFFECTIVENESS SCORE OF 75-90.

(C) DEVELOPING IF THEY ACHIEVE A COMPOSITE EFFECTIVENESS SCORE OF 65-74.

(D) INEFFECTIVE IF THEY ACHIEVE A COMPOSITE EFFECTIVENESS SCORE OF 0-64.

(3) FOR ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED IN ACCORDANCE WITH PARAGRAPH B OF THIS SUBDIVISION FOR THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR AND FOR ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED IN ACCORDANCE WITH PARAGRAPH F OF THIS SUBDIVISION FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR FOR CLASSROOM TEACHERS IN SUBJECTS AND GRADES FOR WHICH THE BOARD OF REGENTS HAS NOT APPROVED A VALUE-ADDED MODEL AND FOR BUILDING PRINCIPALS EMPLOYED IN SCHOOLS OR PROGRAMS FOR WHICH THERE IS NO APPROVED PRINCIPAL VALUE-ADDED MODEL, THE SCORING RANGES FOR THE STUDENT GROWTH ON STATE ASSESSMENTS OR OTHER COMPARABLE MEASURES SUBCOMPONENT SHALL BE IN ACCORDANCE WITH THIS SUBPARAGRAPH. A CLASSROOM TEACHER AND BUILDING PRINCIPAL SHALL RECEIVE:

(A) A HIGHLY EFFECTIVE RATING IN THIS SUBCOMPONENT IF THE TEACHER'S OR PRINCIPAL'S RESULTS ARE WELL-ABOVE THE STATE AVERAGE FOR SIMILAR STUDENTS AND THEY ACHIEVE A SUBCOMPONENT SCORE OF 18-20;

(B) AN EFFECTIVE RATING IN THIS SUBCOMPONENT IF THE TEACHER'S OR PRINCIPAL'S RESULTS MEET THE STATE AVERAGE FOR SIMILAR STUDENTS AND THEY ACHIEVE A SUBCOMPONENT SCORE OF 9-17; OR

(C) A DEVELOPING RATING IN THIS SUBCOMPONENT IF THE TEACHER'S OR PRINCIPAL'S RESULTS ARE BELOW THE STATE AVERAGE FOR SIMILAR STUDENTS AND THEY ACHIEVE A SUBCOMPONENT SCORE OF 3-8; OR

(D) AN INEFFECTIVE RATING IN THIS SUBCOMPONENT, IF THE TEACHER'S OR PRINCIPAL'S RESULTS ARE WELL-BELOW THE STATE AVERAGE FOR SIMILAR STUDENTS AND THEY ACHIEVE A SUBCOMPONENT SCORE OF 0-2.

(4) FOR ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED IN ACCORDANCE WITH PARAGRAPH G OF THIS SUBDIVISION FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR FOR CLASSROOM TEACHERS IN SUBJECTS AND GRADES FOR WHICH THE BOARD OF REGENTS HAS APPROVED A VALUE-ADDED MODEL AND FOR BUILDING PRINCIPALS EMPLOYED IN SCHOOLS OR PROGRAMS FOR WHICH THERE IS AN APPROVED PRINCIPAL VALUE-ADDED MODEL, THE SCORING RANGES FOR THE STUDENT GROWTH ON STATE ASSESSMENTS OR OTHER COMPARABLE MEASURES SUBCOMPONENT SHALL BE IN ACCORDANCE WITH THIS SUBPARAGRAPH. A CLASSROOM TEACHER AND BUILDING PRINCIPAL SHALL RECEIVE:

(A) A HIGHLY EFFECTIVE RATING IN THIS SUBCOMPONENT IF THE TEACHER'S OR PRINCIPAL'S RESULTS ARE WELL-ABOVE THE STATE AVERAGE FOR SIMILAR STUDENTS AND THEY ACHIEVE A SUBCOMPONENT SCORE OF 22-25;

(B) AN EFFECTIVE RATING IN THIS SUBCOMPONENT IF THE TEACHER'S OR PRINCIPAL'S RESULTS MEET THE STATE AVERAGE FOR SIMILAR STUDENTS AND THEY ACHIEVE A SUBCOMPONENT SCORE OF 10-21; OR

(C) A DEVELOPING RATING IN THIS SUBCOMPONENT IF THE TEACHER'S OR PRINCIPAL'S RESULTS ARE BELOW THE STATE AVERAGE FOR SIMILAR STUDENTS AND THEY ACHIEVE A SUBCOMPONENT SCORE OF 3-9; OR

(D) AN INEFFECTIVE RATING IN THIS SUBCOMPONENT, IF THE TEACHER'S OR PRINCIPAL'S RESULTS ARE WELL-BELOW THE STATE AVERAGE FOR SIMILAR STUDENTS AND THEY ACHIEVE A SUBCOMPONENT SCORE OF 0-2.

(5) FOR ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED IN ACCORDANCE WITH PARAGRAPH B OF THIS SUBDIVISION FOR THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR AND FOR ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED IN ACCORDANCE WITH PARAGRAPH F OF THIS SUBDIVISION FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR FOR CLASSROOM TEACHERS IN SUBJECTS AND GRADES FOR WHICH THE BOARD OF REGENTS HAS NOT APPROVED A VALUE-ADDED MODEL AND FOR BUILDING PRINCIPALS EMPLOYED IN SCHOOLS OR PROGRAMS FOR WHICH THERE IS NO APPROVED PRINCIPAL VALUE-ADDED MODEL, THE SCORING RANGES FOR THE LOCALLY SELECTED MEASURES OF STUDENT ACHIEVEMENT SUBCOMPONENT SHALL BE IN ACCORDANCE WITH THIS SUBPARAGRAPH. A CLASSROOM TEACHER AND BUILDING PRINCIPAL SHALL RECEIVE:

(A) A HIGHLY EFFECTIVE RATING IN THIS SUBCOMPONENT IF THE RESULTS ARE WELL-ABOVE DISTRICT-ADOPTED EXPECTATIONS FOR STUDENT GROWTH OR ACHIEVEMENT AND THEY ACHIEVE A SUBCOMPONENT SCORE OF 18-20; OR

(B) AN EFFECTIVE RATING IN THIS SUBCOMPONENT IF THE RESULTS MEET DISTRICT-ADOPTED EXPECTATIONS FOR GROWTH OR ACHIEVEMENT AND THEY ACHIEVE A SUBCOMPONENT SCORE OF 9-17; OR

(C) A DEVELOPING RATING IN THIS SUBCOMPONENT IF THE RESULTS ARE BELOW DISTRICT-ADOPTED EXPECTATIONS FOR GROWTH OR ACHIEVEMENT AND THEY ACHIEVE A SUBCOMPONENT SCORE OF 3-8; OR

(D) AN INEFFECTIVE RATING IN THIS SUBCOMPONENT IF THE RESULTS ARE WELL-BELOW DISTRICT-ADOPTED EXPECTATIONS FOR GROWTH OR ACHIEVEMENT AND THEY ACHIEVE A SUBCOMPONENT SCORE OF 0-2.

(6) FOR ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED IN ACCORDANCE WITH PARAGRAPH B OF THIS SUBDIVISION FOR THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR AND FOR ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED IN ACCORDANCE WITH PARAGRAPH G OF THIS SUBDIVISION FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR FOR CLASSROOM TEACHERS IN SUBJECTS AND GRADES FOR WHICH THE BOARD OF REGENTS HAS APPROVED A VALUE-ADDED MODEL AND FOR BUILDING PRINCIPALS EMPLOYED IN SCHOOLS OR PROGRAMS FOR WHICH THERE IS AN APPROVED PRINCIPAL VALUE-ADDED MODEL, THE SCORING RANGES FOR THE LOCALLY SELECTED MEASURES OF STUDENT ACHIEVEMENT SUBCOMPONENT SHALL BE IN ACCORDANCE WITH THIS SUBPARAGRAPH. A CLASSROOM TEACHER AND BUILDING PRINCIPAL SHALL RECEIVE:

(A) A HIGHLY EFFECTIVE RATING IN THIS SUBCOMPONENT IF THE RESULTS ARE WELL-ABOVE DISTRICT-ADOPTED EXPECTATIONS FOR STUDENT GROWTH OR ACHIEVEMENT AND THEY ACHIEVE A SUBCOMPONENT SCORE OF 14-15; OR

(B) AN EFFECTIVE RATING IN THIS SUBCOMPONENT IF THE RESULTS MEET DISTRICT-ADOPTED EXPECTATIONS FOR GROWTH OR ACHIEVEMENT AND THEY ACHIEVE A SUBCOMPONENT SCORE OF 8-13; OR

(C) A DEVELOPING RATING IN THIS SUBCOMPONENT IF THE RESULTS ARE BELOW DISTRICT-ADOPTED EXPECTATIONS FOR GROWTH OR ACHIEVEMENT AND THEY ACHIEVE A SUBCOMPONENT SCORE OF 3-7; OR

(D) AN INEFFECTIVE RATING IN THIS SUBCOMPONENT IF THE RESULTS ARE WELL-BELOW DISTRICT-ADOPTED EXPECTATIONS FOR GROWTH OR ACHIEVEMENT AND THEY ACHIEVE A SUBCOMPONENT SCORE OF 0-2.

(7) FOR THE TWO THOUSAND THIRTEEN--TWO THOUSAND FOURTEEN SCHOOL YEAR AND THEREAFTER, THE COMMISSIONER SHALL REVIEW THE SPECIFIC SCORING RANGES FOR EACH OF THE RATING CATEGORIES ANNUALLY BEFORE THE START OF EACH SCHOOL YEAR AND SHALL RECOMMEND ANY CHANGES TO THE BOARD OF REGENTS FOR CONSIDERATION.

(8) Except for the student growth measures ON THE STATE ASSESSMENTS OR OTHER COMPARABLE MEASURES OF STUDENT GROWTH prescribed in paragraphs e, f and g of this subdivision, the elements comprising the composite effectiveness score AND THE PROCESS BY WHICH POINTS ARE ASSIGNED TO

SUBCOMPONENTS shall be locally developed, consistent with the standards prescribed in the regulations of the commissioner AND THE REQUIREMENTS OF THIS SECTION, through negotiations conducted, pursuant to the requirements of article fourteen of the civil service law.

S 3. Paragraphs b and c of subdivision 2 of section 3012-c of the education law, as added by chapter 103 of the laws of 2010, are amended to read as follows:

b. (1) Annual professional performance reviews conducted by school districts [on or after July first, two thousand eleven] OR BOARDS OF COOPERATIVE EDUCATIONAL SERVICES FOR THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR of classroom teachers of common branch subjects or English language arts or mathematics in grades four to eight and all building principals of schools in which such teachers are employed shall be conducted pursuant to this subdivision and shall use two thousand ten--two thousand eleven school year student data as the baseline for the initial computation of the composite teacher or principal effectiveness score for such classroom teachers and principals.

(2) SUBJECT TO PARAGRAPH K OF THIS SUBDIVISION THE ENTIRE ANNUAL PROFESSIONAL PERFORMANCE REVIEW SHALL BE COMPLETED AND PROVIDED TO THE TEACHER OR PRINCIPAL AS SOON AS PRACTICABLE BUT IN NO CASE LATER THAN SEPTEMBER FIRST, TWO THOUSAND TWELVE. THE PROVISIONS OF SUBPARAGRAPHS TWO AND THREE OF PARAGRAPH C OF THIS SUBDIVISION SHALL APPLY TO SUCH REVIEWS.

c. (1) Annual professional performance reviews conducted by school districts or boards of cooperative educational services [on or after July first, two thousand twelve] FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR AND THEREAFTER of all classroom teachers and all building principals shall be conducted pursuant to this subdivision and shall use two thousand eleven--two thousand twelve school year student data as the baseline for the initial computation of the composite teacher or principal effectiveness score for such classroom teachers and principals. For purposes of this section, an administrator in charge of an instructional program of a board of cooperative educational services shall be deemed to be a building principal.

(2) SUBJECT TO PARAGRAPH K OF THIS SUBDIVISION THE ENTIRE ANNUAL PROFESSIONAL PERFORMANCE REVIEW SHALL BE COMPLETED AND PROVIDED TO THE TEACHER OR PRINCIPAL AS SOON AS PRACTICABLE BUT IN NO CASE LATER THAN SEPTEMBER FIRST OF THE SCHOOL YEAR NEXT FOLLOWING THE SCHOOL YEAR FOR WHICH THE CLASSROOM TEACHER OR BUILDING PRINCIPAL'S PERFORMANCE IS BEING MEASURED. THE TEACHER'S AND PRINCIPAL'S SCORE AND RATING ON THE LOCALLY SELECTED MEASURES SUBCOMPONENT, IF AVAILABLE, AND ON THE OTHER MEASURES OF TEACHER AND PRINCIPAL EFFECTIVENESS SUBCOMPONENT FOR A TEACHER'S OR PRINCIPAL'S ANNUAL PROFESSIONAL PERFORMANCE REVIEW SHALL BE COMPUTED AND PROVIDED TO THE TEACHER OR PRINCIPAL, IN WRITING, BY NO LATER THAN THE LAST DAY OF THE SCHOOL YEAR FOR WHICH THE TEACHER OR PRINCIPAL IS BEING MEASURED. NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED TO AUTHORIZE A TEACHER OR PRINCIPAL TO TRIGGER THE APPEAL PROCESS PRIOR TO RECEIPT OF HIS OR HER COMPOSITE EFFECTIVENESS SCORE AND RATING.

(3) EACH SUCH ANNUAL PROFESSIONAL PERFORMANCE REVIEW SHALL BE BASED ON THE STATE ASSESSMENTS OR OTHER COMPARABLE MEASURES SUBCOMPONENT, THE LOCALLY SELECTED MEASURES OF STUDENT ACHIEVEMENT SUBCOMPONENT AND THE OTHER MEASURES OF TEACHER AND PRINCIPAL EFFECTIVENESS SUBCOMPONENT, DETERMINED IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF THIS SECTION AND THE REGULATIONS OF THE COMMISSIONER, FOR THE SCHOOL YEAR FOR WHICH THE TEACHER'S OR PRINCIPAL'S PERFORMANCE IS MEASURED.

1 S 4. Paragraphs e, f and g of subdivision 2 of section 3012-c of the
2 education law, as added by chapter 103 of the laws of 2010, are amended
3 to read as follows:

4 e. (1) For annual professional performance reviews conducted in
5 accordance with paragraph b of this subdivision [in] FOR the two thou-
6 sand eleven--two thousand twelve school year, forty percent of the
7 composite score of effectiveness shall be based on student achievement
8 measures as follows: (i) twenty percent of the evaluation shall be
9 based upon student growth data on state assessments as prescribed by the
10 commissioner or a comparable measure of student growth if such growth
11 data is not available; and (ii) twenty percent shall be based on other
12 locally selected measures of student achievement that are determined to
13 be rigorous and comparable across classrooms in accordance with the
14 regulations of the commissioner and as are developed locally in a manner
15 consistent with procedures negotiated pursuant to the requirements of
16 article fourteen of the civil service law.

17 (2) SUCH LOCALLY SELECTED MEASURES MAY INCLUDE MEASURES OF STUDENT
18 ACHIEVEMENT OR GROWTH ON STATE ASSESSMENTS, REGENTS EXAMINATIONS AND/OR
19 DEPARTMENT APPROVED EQUIVALENT, PROVIDED THAT SUCH MEASURES ARE DIFFER-
20 ENT FROM THOSE PRESCRIBED BY THE COMMISSIONER PURSUANT TO CLAUSE (I) OF
21 SUBPARAGRAPH ONE OF THIS PARAGRAPH. THE REGULATIONS OF THE COMMISSIONER
22 SHALL DESCRIBE THE TYPES OF MEASURES OF STUDENT GROWTH OR ACHIEVEMENT
23 THAT MAY BE LOCALLY SELECTED. THE SELECTION OF THE LOCAL MEASURE(S) AS
24 DESCRIBED IN THIS PARAGRAPH TO BE USED BY THE SCHOOL DISTRICT OR BOARD
25 OF COOPERATIVE EDUCATIONAL SERVICES SHALL BE DETERMINED THROUGH COLLEC-
26 TIVE BARGAINING.

27 f. (1) For annual professional performance reviews conducted in
28 accordance with paragraph c of this subdivision [in any school year
29 prior to the first school year for which the board of regents has
30 approved use of a value-added growth model, but not earlier than] FOR
31 the two thousand twelve--two thousand thirteen school year AND THEREAFT-
32 ER FOR CLASSROOM TEACHERS IN SUBJECTS AND GRADES FOR WHICH THE BOARD OF
33 REGENTS HAS NOT APPROVED A VALUE-ADDED MODEL AND FOR BUILDING PRINCIPALS
34 EMPLOYED IN SCHOOLS OR PROGRAMS FOR WHICH THERE IS NO APPROVED PRINCIPAL
35 VALUE-ADDED MODEL, forty percent of the composite score of effectiveness
36 shall be based on student achievement measures as follows: (i) twenty
37 percent of the evaluation shall be based upon student growth data on
38 state assessments as prescribed by the commissioner or a comparable
39 measure of student growth if such growth data is not available; and (ii)
40 twenty percent shall be based on other locally selected measures of
41 student achievement that are determined to be rigorous and comparable
42 across classrooms in accordance with the regulations of the commissioner
43 and as are developed locally in a manner consistent with procedures
44 negotiated pursuant to the requirements of article fourteen of the civil
45 service law.

46 (2) ONE OR MORE OF THE FOLLOWING TYPES OF LOCALLY SELECTED MEASURES OF
47 STUDENT ACHIEVEMENT OR GROWTH MAY BE USED FOR THE EVALUATION OF CLASS-
48 ROOM TEACHERS:

49 (I) STUDENT ACHIEVEMENT OR GROWTH ON STATE ASSESSMENTS, REGENTS EXAM-
50 INATIONS AND/OR DEPARTMENT APPROVED ALTERNATIVE EXAMINATIONS AS
51 DESCRIBED IN THE REGULATIONS OF THE COMMISSIONER INCLUDING, BUT NOT
52 LIMITED TO, ADVANCED PLACEMENT EXAMINATIONS, INTERNATIONAL BACCALAUREATE
53 EXAMINATIONS, AND SAT II, USING A MEASURE THAT IS DIFFERENT FROM THE
54 GROWTH SCORE PRESCRIBED BY THE DEPARTMENT FOR STUDENT GROWTH ON SUCH
55 ASSESSMENTS OR EXAMINATIONS FOR PURPOSES OF THE STATE ASSESSMENT OR
56 OTHER COMPARABLE MEASURES SUBCOMPONENT THAT IS EITHER:

1 (A) THE CHANGE IN PERCENTAGE OF A TEACHER'S STUDENTS WHO ACHIEVE A
2 SPECIFIC LEVEL OF PERFORMANCE AS DETERMINED LOCALLY, ON SUCH
3 ASSESSMENTS/EXAMINATIONS COMPARED TO THOSE STUDENTS' LEVEL OF PERFORM-
4 ANCE ON SUCH ASSESSMENTS/EXAMINATIONS IN THE PREVIOUS SCHOOL YEAR SUCH
5 AS A THREE PERCENTAGE POINT INCREASE IN STUDENTS EARNING THE PROFICIENT
6 LEVEL (THREE) OR BETTER PERFORMANCE LEVEL ON THE SEVENTH GRADE MATH
7 STATE ASSESSMENT COMPARED TO THOSE SAME STUDENTS' PERFORMANCE LEVELS ON
8 THE SIXTH GRADE MATH STATE ASSESSMENT, OR AN INCREASE IN THE PERCENTAGE
9 OF A TEACHER'S STUDENTS EARNING THE ADVANCED PERFORMANCE LEVEL (FOUR) ON
10 THE FOURTH GRADE ENGLISH LANGUAGE ARTS OR MATH STATE ASSESSMENTS
11 COMPARED TO THOSE STUDENTS' PERFORMANCE LEVELS ON THE THIRD GRADE
12 ENGLISH LANGUAGE ARTS OR MATH STATE ASSESSMENTS; OR

13 (B) A TEACHER SPECIFIC GROWTH SCORE COMPUTED BY THE DEPARTMENT BASED
14 ON THE PERCENT OF THE TEACHER'S STUDENTS EARNING A DEPARTMENT DETERMINED
15 LEVEL OF GROWTH. THE METHODOLOGY TO TRANSLATE SUCH GROWTH INTO THE
16 STATE-ESTABLISHED SUBCOMPONENT SCORING RANGES SHALL BE DETERMINED LOCAL-
17 LY; OR

18 (C) A TEACHER-SPECIFIC ACHIEVEMENT OR GROWTH SCORE COMPUTED IN A
19 MANNER DETERMINED LOCALLY BASED ON A MEASURE OF STUDENT PERFORMANCE ON
20 THE STATE ASSESSMENTS, REGENTS EXAMINATIONS AND/OR DEPARTMENT APPROVED
21 ALTERNATIVE EXAMINATIONS OTHER THAN THE MEASURE DESCRIBED IN ITEM (A) OR
22 (B) OF THIS SUBPARAGRAPH;

23 (II) STUDENT GROWTH OR ACHIEVEMENT COMPUTED IN A MANNER DETERMINED
24 LOCALLY BASED ON A STUDENT ASSESSMENT APPROVED BY THE DEPARTMENT PURSU-
25 ANT TO A REQUEST FOR QUALIFICATION PROCESS ESTABLISHED IN THE REGU-
26 LATIONS OF THE COMMISSIONER;

27 (III) STUDENT GROWTH OR ACHIEVEMENT COMPUTED IN A MANNER DETERMINED
28 LOCALLY BASED ON A DISTRICT, REGIONAL OR BOCES-DEVELOPED ASSESSMENT THAT
29 IS RIGOROUS AND COMPARABLE ACROSS CLASSROOMS;

30 (IV) A SCHOOL-WIDE MEASURE OF EITHER STUDENT GROWTH OR ACHIEVEMENT
31 BASED ON EITHER:

32 (A) A STATE-PROVIDED STUDENT GROWTH SCORE COVERING ALL STUDENTS IN THE
33 SCHOOL THAT TOOK THE STATE ASSESSMENT IN ENGLISH LANGUAGE ARTS OR MATH-
34 EMATICS IN GRADES FOUR THROUGH EIGHT;

35 (B) A SCHOOL-WIDE MEASURE OF STUDENT GROWTH OR ACHIEVEMENT COMPUTED IN
36 A MANNER DETERMINED LOCALLY BASED ON A DISTRICT, REGIONAL OR BOARD OF
37 COOPERATIVE EDUCATIONAL SERVICES DEVELOPED ASSESSMENT THAT IS RIGOROUS
38 AND COMPARABLE ACROSS CLASSROOMS OR A DEPARTMENT APPROVED STUDENT
39 ASSESSMENT OR BASED ON A STATE ASSESSMENT; OR

40 (V) WHERE APPLICABLE, FOR TEACHERS IN ANY GRADE OR SUBJECT WHERE THERE
41 IS NO GROWTH OR VALUE-ADDED GROWTH MODEL APPROVED BY THE BOARD OF
42 REGENTS AT THAT GRADE LEVEL OR IN THAT SUBJECT, A STRUCTURED
43 DISTRICT-WIDE STUDENT GROWTH GOAL-SETTING PROCESS TO BE USED WITH ANY
44 STATE ASSESSMENT OR AN APPROVED STUDENT ASSESSMENT OR A DISTRICT,
45 REGIONAL OR BOCES-DEVELOPED ASSESSMENT THAT IS RIGOROUS AND COMPARABLE
46 ACROSS CLASSROOMS.

47 (3) ONE OR MORE OF THE FOLLOWING TYPES OF LOCALLY SELECTED MEASURES OF
48 STUDENT ACHIEVEMENT OR GROWTH MAY BE USED FOR THE EVALUATION OF PRINCI-
49 PALS, PROVIDED THAT EACH MEASURE IS RIGOROUS AND COMPARABLE ACROSS
50 CLASSROOMS AND THAT ANY SUCH MEASURE SHALL BE DIFFERENT FROM THAT USED
51 FOR THE STATE ASSESSMENT OR OTHER COMPARABLE MEASURES SUBCOMPONENT:

52 (I) STUDENT ACHIEVEMENT LEVELS ON STATE ASSESSMENTS IN ENGLISH
53 LANGUAGE ARTS AND/OR MATHEMATICS IN GRADES FOUR TO EIGHT SUCH AS
54 PERCENTAGE OF STUDENTS IN THE SCHOOL WHOSE PERFORMANCE LEVELS ON STATE
55 ASSESSMENTS ARE PROFICIENT OR ADVANCED, AS DEFINED IN THE REGULATIONS OF
56 THE COMMISSIONER;

(II) STUDENT GROWTH OR ACHIEVEMENT ON STATE OR OTHER ASSESSMENTS IN ENGLISH LANGUAGE ARTS AND/OR MATHEMATICS IN GRADES FOUR TO EIGHT FOR STUDENTS IN EACH OF THE PERFORMANCE LEVELS DESCRIBED IN THE REGULATIONS OF THE COMMISSIONER;

(III) STUDENT GROWTH OR ACHIEVEMENT ON STATE ASSESSMENTS IN ENGLISH LANGUAGE ARTS AND/OR MATHEMATICS IN GRADES FOUR TO EIGHT FOR STUDENTS WITH DISABILITIES AND ENGLISH LANGUAGE LEARNERS IN GRADES FOUR TO EIGHT;

(IV) STUDENT PERFORMANCE ON ANY OR ALL OF THE DISTRICT-WIDE LOCALLY SELECTED MEASURES APPROVED FOR USE IN TEACHER EVALUATIONS;

(V) FOR PRINCIPALS EMPLOYED IN A SCHOOL WITH HIGH SCHOOL GRADES, FOUR, FIVE AND/OR SIX-YEAR HIGH SCHOOL GRADUATION AND/OR DROPOUT RATES;

(VI) PERCENTAGE OF STUDENTS WHO EARN A REGENTS DIPLOMA WITH ADVANCED DESIGNATION AND/OR HONORS AS DEFINED IN THE REGULATIONS OF THE COMMISSIONER, FOR PRINCIPALS EMPLOYED IN A SCHOOL WITH HIGH SCHOOL GRADES;

(VII) PERCENTAGE OF A COHORT OF STUDENTS THAT ACHIEVE SPECIFIED SCORES ON REGENTS EXAMINATIONS AND/OR DEPARTMENT APPROVED ALTERNATIVE EXAMINATIONS INCLUDING, BUT NOT LIMITED TO, ADVANCED PLACEMENT EXAMINATIONS, INTERNATIONAL BACCALAUREATE EXAMINATIONS AND SAT II, FOR PRINCIPALS EMPLOYED IN A SCHOOL WITH HIGH SCHOOL GRADES SUCH AS THE PERCENTAGE OF STUDENTS IN THE TWO THOUSAND NINE COHORT THAT SCORED AT LEAST A THREE ON AN ADVANCED PLACEMENT EXAMINATION SINCE ENTRY INTO THE NINTH GRADE; AND/OR

(VIII) STUDENTS' PROGRESS TOWARD GRADUATION IN THE SCHOOL USING STRONG PREDICTIVE INDICATORS, INCLUDING BUT NOT LIMITED TO NINTH AND/OR TENTH GRADE CREDIT ACCUMULATION AND/OR THE PERCENTAGE OF STUDENTS THAT PASS NINTH AND/OR TENTH GRADE SUBJECTS MOST COMMONLY ASSOCIATED WITH GRADUATION AND/OR STUDENTS' PROGRESS IN PASSING THE NUMBER OF REQUIRED REGENTS EXAMINATIONS FOR GRADUATION, FOR PRINCIPALS EMPLOYED IN A SCHOOL WITH HIGH SCHOOL GRADES.

(IX) FOR SCHOOL DISTRICTS OR BOARDS OF COOPERATIVE EDUCATIONAL SERVICES THAT CHOOSE TO USE MORE THAN ONE SET OF LOCALLY SELECTED MEASURES DESCRIBED IN THIS PARAGRAPH FOR PRINCIPALS IN THE SAME OR SIMILAR GRADE CONFIGURATION OR PROGRAM SUCH AS ONE SET OF LOCALLY SELECTED MEASURES IS USED TO EVALUATE PRINCIPALS IN SOME K-5 SCHOOLS AND ANOTHER SET OF LOCALLY SELECTED MEASURES IS USED TO EVALUATE PRINCIPALS IN THE OTHER K-5 SCHOOLS IN THE DISTRICT, THE SUPERINTENDENT OR DISTRICT SUPERINTENDENT SHALL, IN THEIR PROFESSIONAL PERFORMANCE REVIEW PLAN, CERTIFY THAT THE SETS OF MEASURES ARE COMPARABLE, IN ACCORDANCE WITH THE TESTING STANDARDS AS DEFINED IN REGULATIONS OF THE COMMISSIONER.

(X) FOR BUILDING PRINCIPALS EMPLOYED IN SCHOOLS OR PROGRAMS FOR WHICH THERE IS NO APPROVED PRINCIPAL VALUE-ADDED MODEL, THE TYPES OF LOCALLY SELECTED MEASURES OF STUDENT ACHIEVEMENT OR GROWTH SPECIFIED IN SUBPARAGRAPH THREE OF PARAGRAPH G OF THIS SUBDIVISION MAY BE USED. IN ADDITION, A STRUCTURED DISTRICT-WIDE STUDENT GROWTH GOAL-SETTING PROCESS TO BE USED WITH ANY STATE ASSESSMENT OR AN APPROVED STUDENT ASSESSMENT OR A DISTRICT, REGIONAL OF BOCES-DEVELOPED ASSESSMENT THAT IS RIGOROUS AND COMPARABLE ACROSS CLASSROOMS MAY BE A LOCALLY SELECTED MEASURE.

(4) THE SELECTION OF THE LOCAL MEASURE OR MEASURES AS DESCRIBED IN SUBPARAGRAPHS TWO AND THREE OF THIS PARAGRAPH TO BE USED BY THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL BE DETERMINED THROUGH COLLECTIVE BARGAINING.

g. (1) For annual professional performance reviews conducted in accordance with paragraph c of this subdivision [in] FOR the [first school year for which the board of regents has approved use of a value-added growth model] TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR and thereafter FOR CLASSROOM TEACHERS IN SUBJECTS AND GRADES IN

1 WHICH THERE IS A VALUE-ADDED GROWTH MODEL APPROVED BY THE BOARD OF
2 REGENTS AND FOR BUILDING PRINCIPALS EMPLOYED IN SCHOOLS OR PROGRAMS FOR
3 WHICH THERE IS AN APPROVED PRINCIPAL VALUE-ADDED MODEL, forty percent of
4 the composite score of effectiveness shall be based on student achieve-
5 ment measures as follows: (i) twenty-five percent of the evaluation
6 shall be based upon student growth data on state assessments as
7 prescribed by the commissioner or a comparable measure of student growth
8 if such growth data is not available; and (ii) fifteen percent shall be
9 based on other locally selected measures of student achievement that are
10 determined to be rigorous and comparable across classrooms in accordance
11 with the regulations of the commissioner and as are locally developed in
12 a manner consistent with procedures negotiated pursuant to the require-
13 ments of article fourteen of the civil service law. The department shall
14 develop the value-added growth model and shall consult with the advisory
15 committee established pursuant to subdivision seven of this section
16 prior to recommending that the board of regents approve its use in eval-
17 uations.

18 (2) ONE OR MORE OF THE FOLLOWING TYPES OF LOCALLY SELECTED MEASURES OF
19 STUDENT ACHIEVEMENT OR GROWTH MAY BE USED FOR THE EVALUATION OF CLASS-
20 ROOM TEACHERS:

21 (I) STUDENT ACHIEVEMENT OR GROWTH ON STATE ASSESSMENTS, REGENTS EXAM-
22 INATIONS AND/OR DEPARTMENT APPROVED ALTERNATIVE EXAMINATIONS AS
23 DESCRIBED IN THE REGULATIONS OF THE COMMISSIONER INCLUDING, BUT NOT
24 LIMITED TO, ADVANCED PLACEMENT EXAMINATIONS, INTERNATIONAL BACCALAUREATE
25 EXAMINATIONS AND SAT II, USING A MEASURE THAT IS DIFFERENT FROM THE
26 GROWTH SCORE PRESCRIBED BY THE DEPARTMENT FOR STUDENT GROWTH ON SUCH
27 ASSESSMENTS OR EXAMINATIONS FOR PURPOSES OF THE STATE ASSESSMENT OR
28 OTHER COMPARABLE MEASURES SUBCOMPONENT THAT IS EITHER:

29 (A) THE CHANGE IN PERCENTAGE OF A TEACHER'S STUDENTS WHO ACHIEVE A
30 SPECIFIC LEVEL OF PERFORMANCE AS DETERMINED LOCALLY, ON SUCH
31 ASSESSMENTS/EXAMINATIONS COMPARED TO THOSE STUDENTS' LEVEL OF PERFORM-
32 ANCE ON SUCH ASSESSMENTS/EXAMINATIONS IN THE PREVIOUS SCHOOL YEAR SUCH
33 AS A THREE PERCENTAGE POINT INCREASE IN STUDENTS EARNING THE PROFICIENT
34 LEVEL (THREE) OR BETTER PERFORMANCE LEVEL ON THE SEVENTH GRADE MATH
35 STATE ASSESSMENT COMPARED TO THOSE SAME STUDENTS' PERFORMANCE LEVELS ON
36 THE SIXTH GRADE MATH STATE ASSESSMENT, OR AN INCREASE IN THE PERCENTAGE
37 OF A TEACHER'S STUDENTS EARNING THE ADVANCED PERFORMANCE LEVEL (FOUR) ON
38 THE FOURTH GRADE ENGLISH LANGUAGE ARTS OR MATH STATE ASSESSMENTS
39 COMPARED TO THOSE STUDENTS' PERFORMANCE LEVELS ON THE THIRD GRADE
40 ENGLISH LANGUAGE ARTS OR MATH STATE ASSESSMENTS; OR

41 (B) A TEACHER SPECIFIC GROWTH SCORE COMPUTED BY THE STATE BASED ON THE
42 PERCENT OF THE TEACHER'S STUDENTS EARNING A STATE DETERMINED LEVEL OF
43 GROWTH. THE METHODOLOGY TO TRANSLATE SUCH GROWTH INTO THE STATE-ESTABL-
44 IShed SUBCOMPONENT SCORING RANGES SHALL BE DETERMINED LOCALLY; OR

45 (C) A TEACHER-SPECIFIC ACHIEVEMENT OR GROWTH SCORE COMPUTED IN A
46 MANNER DETERMINED LOCALLY BASED ON A MEASURE OF STUDENT PERFORMANCE ON
47 THE STATE ASSESSMENTS, REGENTS EXAMINATIONS AND/OR DEPARTMENT APPROVED
48 ALTERNATIVE EXAMINATIONS OTHER THAN THE MEASURE DESCRIBED IN ITEM (A) OR
49 (B) OF THIS SUBPARAGRAPH;

50 (II) STUDENT GROWTH OR ACHIEVEMENT COMPUTED IN A MANNER DETERMINED
51 LOCALLY BASED ON A STUDENT ASSESSMENT APPROVED BY THE DEPARTMENT PURSU-
52 ANT TO A REQUEST FOR QUALIFICATION PROCESS ESTABLISHED IN THE REGU-
53 LATIONS OF THE COMMISSIONER;

54 (III) STUDENT GROWTH OR ACHIEVEMENT COMPUTED IN A MANNER DETERMINED
55 LOCALLY BASED ON A DISTRICT, REGIONAL OR BOCES-DEVELOPED ASSESSMENT THAT
56 IS RIGOROUS AND COMPARABLE ACROSS CLASSROOMS;

1 (IV) A SCHOOL-WIDE MEASURE OF EITHER STUDENT GROWTH OR ACHIEVEMENT
2 BASED ON EITHER:

3 (A) A STATE-PROVIDED STUDENT GROWTH SCORE COVERING ALL STUDENTS IN THE
4 SCHOOL THAT TOOK THE STATE ASSESSMENT IN ENGLISH LANGUAGE ARTS OR MATH-
5 EMATICS IN GRADES FOUR THROUGH EIGHT; OR

6 (B) A SCHOOL-WIDE MEASURE OF STUDENT GROWTH OR ACHIEVEMENT COMPUTED IN
7 A MANNER DETERMINED LOCALLY BASED ON A DISTRICT, REGIONAL OR BOARD OF
8 COOPERATIVE EDUCATIONAL SERVICES DEVELOPED ASSESSMENT THAT IS RIGOROUS
9 AND COMPARABLE ACROSS CLASSROOMS OR A DEPARTMENT APPROVED STUDENT
10 ASSESSMENT OR BASED ON A STATE ASSESSMENT.

11 (3) ONE OR MORE OF THE FOLLOWING TYPES OF LOCALLY SELECTED MEASURES OF
12 STUDENT ACHIEVEMENT OR GROWTH MAY BE USED FOR THE EVALUATION OF PRINCI-
13 PALS, PROVIDED THAT EACH MEASURE IS RIGOROUS AND COMPARABLE ACROSS
14 CLASSROOMS AND THAT ANY SUCH MEASURE SHALL BE DIFFERENT FROM THAT USED
15 FOR THE STATE ASSESSMENT OR OTHER COMPARABLE MEASURES SUBCOMPONENT:

16 (I) STUDENT ACHIEVEMENT LEVELS ON STATE ASSESSMENTS IN ENGLISH
17 LANGUAGE ARTS AND/OR MATHEMATICS IN GRADES FOUR TO EIGHT SUCH AS
18 PERCENTAGE OF STUDENTS IN THE SCHOOL WHOSE PERFORMANCE LEVELS ON STATE
19 ASSESSMENTS ARE PROFICIENT OR ADVANCED, AS DEFINED IN THE REGULATIONS OF
20 THE COMMISSIONER;

21 (II) STUDENT GROWTH OR ACHIEVEMENT ON STATE OR OTHER ASSESSMENTS IN
22 ENGLISH LANGUAGE ARTS AND/OR MATHEMATICS IN GRADES FOUR TO EIGHT FOR
23 STUDENTS IN EACH OF THE PERFORMANCE LEVELS DESCRIBED IN THE REGULATIONS
24 OF THE COMMISSIONER;

25 (III) STUDENT GROWTH OR ACHIEVEMENT ON STATE ASSESSMENTS IN ENGLISH
26 LANGUAGE ARTS AND/OR MATHEMATICS IN GRADES FOUR TO EIGHT FOR STUDENTS
27 WITH DISABILITIES AND ENGLISH LANGUAGE LEARNERS IN GRADES FOUR TO EIGHT;

28 (IV) STUDENT PERFORMANCE ON ANY OR ALL OF THE DISTRICT-WIDE LOCALLY
29 SELECTED MEASURES APPROVED FOR USE IN TEACHER EVALUATIONS;

30 (V) FOR PRINCIPALS EMPLOYED IN A SCHOOL WITH HIGH SCHOOL GRADES, FOUR,
31 FIVE AND/OR SIX-YEAR HIGH SCHOOL GRADUATION AND/OR DROPOUT RATES;

32 (VI) PERCENTAGE OF STUDENTS WHO EARN A REGENTS DIPLOMA WITH ADVANCED
33 DESIGNATION AND/OR HONORS AS DEFINED IN THE REGULATIONS OF THE COMMIS-
34 SIONER, FOR PRINCIPALS EMPLOYED IN A SCHOOL WITH HIGH SCHOOL GRADES;

35 (VII) PERCENTAGE OF A COHORT OF STUDENTS THAT ACHIEVE SPECIFIED SCORES
36 ON REGENTS EXAMINATIONS AND/OR DEPARTMENT APPROVED ALTERNATIVE EXAMINA-
37 TIONS INCLUDING, BUT NOT LIMITED TO, ADVANCED PLACEMENT EXAMINATIONS,
38 INTERNATIONAL BACCALAUREATE EXAMINATIONS AND SAT II, FOR PRINCIPALS
39 EMPLOYED IN A SCHOOL WITH HIGH SCHOOL GRADES SUCH AS THE PERCENTAGE OF
40 STUDENTS IN THE TWO THOUSAND NINE COHORT THAT SCORED AT LEAST A THREE ON
41 AN ADVANCED PLACEMENT EXAMINATION SINCE ENTRY INTO THE NINTH GRADE;
42 AND/OR

43 (VIII) STUDENTS' PROGRESS TOWARD GRADUATION IN THE SCHOOL USING STRONG
44 PREDICTIVE INDICATORS, INCLUDING BUT NOT LIMITED TO NINTH AND/OR TENTH
45 GRADE CREDIT ACCUMULATION AND/OR THE PERCENTAGE OF STUDENTS THAT PASS
46 NINTH AND/OR TENTH GRADE SUBJECTS MOST COMMONLY ASSOCIATED WITH GRADU-
47 ATION AND/OR STUDENTS' PROGRESS IN PASSING THE NUMBER OF REQUIRED
48 REGENTS EXAMINATIONS FOR GRADUATION, FOR PRINCIPALS EMPLOYED IN A SCHOOL
49 WITH HIGH SCHOOL GRADES.

50 (IX) FOR SCHOOL DISTRICTS OR BOARDS OF COOPERATIVE EDUCATIONAL
51 SERVICES THAT CHOOSE TO USE MORE THAN ONE SET OF LOCALLY SELECTED MEAS-
52 URES DESCRIBED IN THIS PARAGRAPH FOR PRINCIPALS IN THE SAME OR SIMILAR
53 GRADE CONFIGURATION OR PROGRAM, THE SUPERINTENDENT OR DISTRICT SUPER-
54 INTENDENT SHALL, IN THEIR PROFESSIONAL PERFORMANCE REVIEW PLAN, CERTIFY
55 THAT THE SETS OF MEASURES ARE COMPARABLE, IN ACCORDANCE WITH THE TESTING
56 STANDARDS AS DEFINED IN REGULATIONS OF THE COMMISSIONER.

(4) THE SELECTION OF THE LOCAL MEASURE OR MEASURES AS DESCRIBED IN SUBPARAGRAPHS TWO AND THREE OF THIS PARAGRAPH TO BE USED BY THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL BE DETERMINED THROUGH COLLECTIVE BARGAINING.

(5) The department shall develop the value-added growth model and shall consult with the advisory committee established pursuant to subdivision seven of this section prior to recommending that the board of regents approve its use in evaluations.

S 5. Paragraph h of subdivision 2 of section 3012-c of the education law, as added by chapter 103 of the laws of 2010, is amended to read as follows:

h. The remaining SIXTY percent of the evaluations, ratings and effectiveness scores shall be locally developed, consistent with the standards prescribed in the regulations of the commissioner, through negotiations conducted pursuant to article fourteen of the civil service law.

(1) A MAJORITY OF THE SIXTY POINTS FOR CLASSROOM TEACHERS SHALL BE BASED ON MULTIPLE CLASSROOM OBSERVATIONS CONDUCTED BY A PRINCIPAL OR OTHER TRAINED ADMINISTRATOR, WHICH MAY BE PERFORMED IN-PERSON OR BY VIDEO. FOR EVALUATIONS FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR AND THEREAFTER, AT LEAST ONE SUCH OBSERVATION SHALL BE AN UNANNOUNCED VISIT.

(2) FOR THE REMAINING PORTION OF THESE SIXTY POINTS FOR EVALUATIONS FOR THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR, THE COMMISSIONER'S REGULATION SHALL PRESCRIBE THE OTHER FORMS OF EVIDENCE OF TEACHER AND PRINCIPAL EFFECTIVENESS THAT MAY BE USED.

(3) FOR EVALUATIONS OF CLASSROOM TEACHERS FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR AND THEREAFTER, THE REMAINING PORTION OF THESE SIXTY POINTS SHALL BE BASED ON ONE OR MORE OF THE FOLLOWING:

(I) ONE OR MORE CLASSROOM OBSERVATIONS BY INDEPENDENT TRAINED EVALUATORS SELECTED BY THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES WHO ARE TEACHERS OR FORMER TEACHERS WITH A DEMONSTRATED RECORD OF EFFECTIVENESS AND HAVE NO PRIOR AFFILIATION WITH THE SCHOOL IN WHICH THEY ARE CONDUCTING THE EVALUATION AND NO OTHER RELATIONSHIP WITH THE TEACHERS BEING EVALUATED THAT WOULD AFFECT THEIR IMPARTIALITY;

(II) CLASSROOM OBSERVATIONS BY TRAINED IN-SCHOOL PEER TEACHERS; AND/OR

(III) USE OF A STATE-APPROVED INSTRUMENT FOR PARENT OR STUDENT FEEDBACK; AND/OR

(IV) EVIDENCE OF STUDENT DEVELOPMENT AND PERFORMANCE THROUGH LESSON PLANS, STUDENT PORTFOLIOS AND OTHER ARTIFACTS OF TEACHER PRACTICES THROUGH A STRUCTURED REVIEW PROCESS.

(4) A MAJORITY OF THESE SIXTY POINTS FOR BUILDING PRINCIPALS SHALL BE BASED ON A BROAD ASSESSMENT OF THE PRINCIPAL'S LEADERSHIP AND MANAGEMENT ACTIONS BASED ON THE PRINCIPAL PRACTICE RUBRIC BY THE BUILDING PRINCIPAL'S SUPERVISOR, A TRAINED ADMINISTRATOR OR A TRAINED INDEPENDENT EVALUATOR, WITH ONE OR MORE VISITS CONDUCTED BY THE SUPERVISOR, AND, FOR EVALUATIONS FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR AND THEREAFTER, THAT SUCH ASSESSMENT MUST INCORPORATE MULTIPLE SCHOOL VISITS BY A SUPERVISOR, A TRAINED ADMINISTRATOR OR OTHER TRAINED EVALUATOR, WITH AT LEAST ONE VISIT CONDUCTED BY THE SUPERVISOR AND AT LEAST ONE UNANNOUNCED VISIT. FOR THE REMAINING PORTION OF THESE SIXTY POINTS FOR EVALUATIONS FOR THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR, SUCH REGULATIONS SHALL ALSO PRESCRIBE THE OTHER FORMS OF EVIDENCE OF PRINCIPAL EFFECTIVENESS THAT MAY BE USED CONSISTENT WITH THE STANDARDS PRESCRIBED BY THE COMMISSIONER.

1 (5) FOR EVALUATIONS OF BUILDING PRINCIPALS FOR THE TWO THOUSAND
2 TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR AND THEREAFTER, THE REMAINING
3 PORTION OF THESE SIXTY POINTS SHALL INCLUDE, IN ADDITION TO THE REQUIRE-
4 MENTS OF SUBPARAGRAPH THREE OF THIS PARAGRAPH, AT LEAST TWO OTHER SOURC-
5 ES OF EVIDENCE FROM THE FOLLOWING OPTIONS: FEEDBACK FROM TEACHERS,
6 STUDENTS, AND/OR FAMILIES USING STATE-APPROVED INSTRUMENTS; SCHOOL
7 VISITS BY OTHER TRAINED EVALUATORS; AND/OR REVIEW OF SCHOOL DOCUMENTS,
8 RECORDS, AND/OR STATE ACCOUNTABILITY PROCESSES. ANY SUCH REMAINING
9 POINTS SHALL BE ASSIGNED BASED ON THE RESULTS OF ONE OR MORE AMBITIOUS
10 AND MEASURABLE GOALS SET COLLABORATIVELY WITH PRINCIPALS AND THEIR
11 SUPERINTENDENTS OR DISTRICT SUPERINTENDENTS AS FOLLOWS:

12 (I) AT LEAST ONE GOAL MUST ADDRESS THE PRINCIPAL'S CONTRIBUTION TO
13 IMPROVING TEACHER EFFECTIVENESS, WHICH SHALL INCLUDE ONE OR MORE OF THE
14 FOLLOWING: IMPROVED RETENTION OF HIGH PERFORMING TEACHERS, THE CORRE-
15 LATION BETWEEN STUDENT GROWTH SCORES OF TEACHERS GRANTED TENURE AS
16 OPPOSED TO THOSE DENIED TENURE; OR IMPROVEMENTS IN THE PROFICIENCY
17 RATING OF THE PRINCIPAL ON SPECIFIC TEACHER EFFECTIVENESS STANDARDS IN
18 THE PRINCIPAL PRACTICE RUBRIC.

19 (II) ANY OTHER GOALS SHALL ADDRESS QUANTIFIABLE AND VERIFIABLE
20 IMPROVEMENTS IN ACADEMIC RESULTS OR THE SCHOOL'S LEARNING ENVIRONMENTAL
21 SUCH AS STUDENT OR TEACHER ATTENDANCE.

22 (6) THE DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL
23 ESTABLISH SPECIFIC MINIMUM AND MAXIMUM SCORING RANGES FOR EACH PERFORM-
24 ANCE LEVEL WITHIN THIS SUBCOMPONENT BEFORE THE START OF EACH SCHOOL YEAR
25 AND SHALL ASSIGN POINTS TO A TEACHER OR PRINCIPAL FOR THIS SUBCOMPONENT
26 BASED ON THE STANDARDS PRESCRIBED IN THE REGULATIONS OF THE COMMISSION-
27 ER, ALL IN ACCORDANCE WITH, AND SUBJECT TO, THE REQUIREMENTS OF PARA-
28 GRAPH J OF THIS SUBDIVISION.

29 S 6. Subdivision 2 of section 3012-c of the education law is amended
30 by adding a new paragraph j to read as follows:

31 J. (1) THE PROCESS BY WHICH POINTS ARE ASSIGNED IN SUBCOMPONENTS AND
32 THE SCORING RANGES FOR THE SUBCOMPONENTS MUST BE TRANSPARENT AND AVAIL-
33 ABLE TO THOSE BEING RATED BEFORE THE BEGINNING OF EACH SCHOOL YEAR. THE
34 PROCESS BY WHICH POINTS ARE ASSIGNED IN THE RESPECTIVE SUBCOMPONENTS ARE
35 TO BE DETERMINED AS FOLLOWS:

36 (I) FOR THE STATE ASSESSMENT OR OTHER COMPARABLE MEASURES SUBCOMPO-
37 NENT, THAT PROCESS SHALL BE FORMULATED BY THE COMMISSIONER WITH THE
38 APPROVAL OF THE BOARD OF REGENTS.

39 (II) FOR THE LOCALLY SELECTED MEASURES OF THE STUDENT ACHIEVEMENT
40 SUBCOMPONENT, THAT PROCESS SHALL BE ESTABLISHED LOCALLY THROUGH NEGOTI-
41 ATIONS CONDUCTED UNDER ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW.

42 (III) FOR THE OTHER MEASURES OF TEACHER AND PRINCIPAL EFFECTIVENESS
43 SUBCOMPONENT, THAT PROCESS SHALL BE ESTABLISHED LOCALLY THROUGH NEGOTI-
44 ATIONS CONDUCTED UNDER ARTICLE FOURTEEN OF THE CIVIL SERVICES LAW.

45 (2) SUCH PROCESS MUST ENSURE THAT IT IS POSSIBLE FOR A TEACHER OR
46 PRINCIPAL TO OBTAIN EACH POINT IN THE APPLICABLE SCORING RANGES, INCLUD-
47 ING ZERO, FOR THE STATE ASSESSMENT OR OTHER COMPARABLE MEASURES SUBCOM-
48 PONENT, THE LOCALLY SELECTED MEASURES OF STUDENT ACHIEVEMENT SUBCOMPO-
49 NENT AND THE OVERALL RATING CATEGORIES. THE PROCESS MUST ALSO ENSURE
50 THAT IT IS POSSIBLE FOR A TEACHER OR PRINCIPAL TO OBTAIN EACH POINT IN
51 THE SCORING RANGES PRESCRIBED BY THE DISTRICT OR BOARD OF COOPERATIVE
52 EDUCATIONAL SERVICES FOR THE OTHER MEASURES OF TEACHER AND PRINCIPAL
53 EFFECTIVENESS SUBCOMPONENT.

54 (3) THE SUPERINTENDENT, DISTRICT SUPERINTENDENT OR CHANCELLOR AND THE
55 PRESIDENT OF THE COLLECTIVE BARGAINING REPRESENTATIVE (WHERE ONE EXISTS)
56 SHALL CERTIFY IN ITS PLAN THAT THE PROCESS WILL USE THE NARRATIVE

1 DESCRIPTIONS OF THE STANDARDS FOR THE SCORING RANGES PROVIDED IN THE
2 REGULATIONS OF THE COMMISSIONER TO EFFECTIVELY DIFFERENTIATE A TEACHER
3 OR PRINCIPAL'S PERFORMANCE IN EACH OF THE SUBCOMPONENTS AND IN THEIR
4 OVERALL RATINGS TO IMPROVE STUDENT LEARNING AND INSTRUCTION.

5 (4) THE SCORING RANGES FOR THE OTHER MEASURES OF TEACHER AND PRINCIPAL
6 EFFECTIVENESS SUBCOMPONENT SHALL BE ESTABLISHED LOCALLY THROUGH NEGOTI-
7 ATIONS CONDUCTED UNDER ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW.

8 S 7. Subdivision 2 of section 3012-c of the education law is amended
9 by adding a new paragraph k to read as follows:

10 K. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO
11 THE CONTRARY, BY JULY FIRST, TWO THOUSAND TWELVE, THE GOVERNING BODY OF
12 EACH SCHOOL DISTRICT AND BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL
13 ADOPT A PLAN, ON A FORM PRESCRIBED BY THE COMMISSIONER, FOR THE ANNUAL
14 PROFESSIONAL PERFORMANCE REVIEW OF ALL OF ITS CLASSROOM TEACHERS AND
15 BUILDING PRINCIPALS IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION
16 AND THE REGULATIONS OF THE COMMISSIONER, AND SHALL SUBMIT SUCH PLAN TO
17 THE COMMISSIONER FOR APPROVAL. THE PLAN MAY BE AN ANNUAL OR MULTI-YEAR
18 PLAN, FOR THE ANNUAL PROFESSIONAL PERFORMANCE REVIEW OF ALL OF ITS
19 CLASSROOM TEACHERS AND BUILDING PRINCIPALS. THE COMMISSIONER SHALL
20 APPROVE OR REJECT THE PLAN BY SEPTEMBER FIRST, TWO THOUSAND TWELVE, OR
21 AS SOON AS PRACTICABLE THEREAFTER. THE COMMISSIONER MAY REJECT A PLAN
22 THAT DOES NOT RIGOROUSLY ADHERE TO THE PROVISIONS OF THIS SECTION AND
23 THE REGULATIONS OF THE COMMISSIONER. SHOULD ANY PLAN BE REJECTED, THE
24 COMMISSIONER SHALL DESCRIBE EACH DEFICIENCY IN THE SUBMITTED PLAN AND
25 DIRECT THAT EACH SUCH DEFICIENCY BE RESOLVED THROUGH COLLECTIVE BARGAIN-
26 ING TO THE EXTENT REQUIRED UNDER ARTICLE FOURTEEN OF THE CIVIL SERVICE
27 LAW. IF ANY MATERIAL CHANGES ARE MADE TO THE PLAN, THE SCHOOL DISTRICT
28 OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES MUST SUBMIT THE MATERIAL
29 CHANGES, ON A FORM PRESCRIBED BY THE COMMISSIONER, TO THE COMMISSIONER
30 FOR APPROVAL. TO THE EXTENT THAT BY JULY FIRST, TWO THOUSAND TWELVE, OR
31 BY JULY FIRST OF ANY SUBSEQUENT YEAR, IF ALL THE TERMS OF THE PLAN HAVE
32 NOT BEEN FINALIZED AS A RESULT OF UNRESOLVED COLLECTIVE BARGAINING NEGO-
33 TIATIONS, THE ENTIRE PLAN SHALL BE SUBMITTED TO THE COMMISSIONER UPON
34 RESOLUTION OF ALL OF ITS TERMS, CONSISTENT WITH ARTICLE FOURTEEN OF THE
35 CIVIL SERVICE LAW.

36 S 8. Subdivision 4 of section 3012-c of the education law, as added by
37 chapter 103 of the laws of 2010, is amended to read as follows:

38 4. Notwithstanding any other law, rule or regulation to the contrary,
39 upon rating a teacher or a principal as developing or ineffective
40 through an annual professional performance review conducted pursuant to
41 subdivision two of this section, the school district or board of cooper-
42 ative educational services shall formulate and commence implementation
43 of a teacher or principal improvement plan for such teacher or principal
44 as soon as practicable but in no case later than ten SCHOOL days after
45 [the date on which teachers are required to report prior to] the opening
46 of classes for the school year. Such improvement plan shall be consist-
47 ent with the regulations of the commissioner and developed locally
48 through negotiations conducted pursuant to article fourteen of the civil
49 service law. Such improvement plan shall include, but need not be limit-
50 ed to, identification of needed areas of improvement, a timeline for
51 achieving improvement, the manner in which improvement will be assessed,
52 and, where appropriate, differentiated activities to support a teacher's
53 or principal's improvement in those areas.

54 S 9. Subdivision 5 of section 3012-c of the education law, as added by
55 chapter 103 of the laws of 2010, is amended to read as follows:

1 5. A. An appeals procedure shall be locally established in each school
2 district and in each board of cooperative educational services by which
3 the evaluated teacher or principal may only challenge the substance of
4 the annual professional performance review, the school district's or
5 board of cooperative educational services' adherence to the standards
6 and methodologies required for such reviews, pursuant to this section,
7 the adherence to the regulations of the commissioner and compliance with
8 any applicable locally negotiated procedures, as well as the school
9 district's or board of cooperative educational services' issuance and/or
10 implementation of the terms of the teacher or principal improvement
11 plan, as required under this section. APPEAL PROCEDURES SHALL PROVIDE
12 FOR THE TIMELY AND EXPEDITIOUS RESOLUTION OF ANY APPEAL UNDER THIS
13 SUBDIVISION. The specifics of the appeal procedure shall be locally
14 established through negotiations conducted pursuant to article fourteen
15 of the civil service law. An evaluation which is the subject of an
16 appeal shall not be sought to be offered in evidence or placed in
17 evidence in any proceeding conducted pursuant to either section three
18 thousand twenty-a of this article or any locally negotiated alternate
19 disciplinary procedure, until the appeal process is concluded.

20 B. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ALTER OR DIMINISH
21 THE AUTHORITY OF THE GOVERNING BODY OF A SCHOOL DISTRICT OR BOARD OF
22 COOPERATIVE EDUCATIONAL SERVICES TO GRANT OR DENY TENURE TO OR TERMINATE
23 PROBATIONARY TEACHERS OR PROBATIONARY BUILDING PRINCIPALS DURING THE
24 PENDENCY OF AN APPEAL PURSUANT TO THIS SECTION FOR STATUTORILY AND
25 CONSTITUTIONALLY PERMISSIBLE REASONS OTHER THAN THE TEACHER'S OR PRINCIPAL'S
26 PERFORMANCE THAT IS THE SUBJECT OF THE APPEAL.

27 C. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AUTHORIZE A TEACHER
28 OR PRINCIPAL TO TRIGGER THE APPEAL PROCESS PRIOR TO RECEIPT OF THEIR
29 COMPOSITE EFFECTIVENESS SCORE AND RATING FROM THE DISTRICT OR BOARD OF
30 COOPERATIVE EDUCATIONAL SERVICES.

31 S 10. Section 3012-c of the education law is amended by adding a new
32 subdivision 9 to read as follows:

33 9. A. THE DEPARTMENT SHALL ANNUALLY MONITOR AND ANALYZE TRENDS AND
34 PATTERNS IN TEACHER AND PRINCIPAL EVALUATION RESULTS AND DATA TO IDENTIFY
35 SCHOOL DISTRICTS, BOARDS OF COOPERATIVE EDUCATIONAL SERVICES AND/OR
36 SCHOOLS WHERE EVIDENCE SUGGESTS THAT A MORE RIGOROUS EVALUATION SYSTEM
37 IS NEEDED TO IMPROVE EDUCATOR EFFECTIVENESS AND STUDENT LEARNING
38 OUTCOMES. THE CRITERIA FOR IDENTIFYING SCHOOL DISTRICTS, BOARDS OF COOP-
39 ERATIVE EDUCATIONAL SERVICES AND/OR SCHOOLS SHALL BE PRESCRIBED IN THE
40 REGULATIONS OF THE COMMISSIONER.

41 B. A SCHOOL, SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL
42 SERVICES IDENTIFIED BY THE DEPARTMENT IN ONE OF THE CATEGORIES ENUMER-
43 ATED IN PARAGRAPH A OF THIS SUBDIVISION MAY BE HIGHLIGHTED IN PUBLIC
44 REPORTS AND/OR THE COMMISSIONER MAY ORDER A CORRECTIVE ACTION PLAN,
45 WHICH MAY INCLUDE, BUT NOT BE LIMITED TO, REQUIREMENTS THAT THE DISTRICT
46 OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES ARRANGE FOR ADDITIONAL
47 PROFESSIONAL DEVELOPMENT, PROVIDE ADDITIONAL IN-SERVICE TRAINING AND/OR
48 UTILIZE INDEPENDENT TRAINED EVALUATORS TO REVIEW THE EFFICACY OF THE
49 EVALUATION SYSTEM, PROVIDED THAT THE PLAN SHALL BE CONSISTENT WITH LAW
50 AND NOT IN CONFLICT WITH ANY APPLICABLE COLLECTIVE BARGAINING AGREEMENT.

51 S 11. This act shall take effect immediately.

52

PART A-2

53 Section 1. Section 3012-c of the education law is amended by adding a
54 new subdivision 5-a to read as follows:

1 5-A. IN THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK, NOTWITH-
2 STANDING ANY PROVISION OF LAW TO THE CONTRARY, THE FOLLOWING SHALL APPLY
3 TO CLASSROOM TEACHERS:

4 A. A TEACHER WHO DID NOT RECEIVE AN INEFFECTIVE RATING IN THE ANNUAL
5 PROFESSIONAL PERFORMANCE REVIEW FOR THE PRIOR SCHOOL YEAR IS IN "YEAR
6 ONE STATUS".

7 B. A TEACHER WHO RECEIVED AN INEFFECTIVE RATING IN THE PREVIOUS SCHOOL
8 YEAR IS IN "YEAR TWO STATUS", UNTIL AND UNLESS THAT RATING IS EITHER
9 CHANGED BY THE PRINCIPAL OR REVERSED ON APPEAL IN ACCORDANCE WITH THE
10 PROVISIONS OF THIS SUBDIVISION, OR UNTIL AND UNLESS THE TEACHER REVERTS
11 TO YEAR ONE STATUS IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBDIVI-
12 SION.

13 C. A TEACHER WHO IS RATED INEFFECTIVE FOR A SCHOOL YEAR IN WHICH THE
14 TEACHER HAS YEAR ONE STATUS SHALL HAVE A RIGHT TO APPEAL THAT RATING TO
15 THE CHANCELLOR OF THE CITY SCHOOL DISTRICT, WHO SHALL MAKE A FINAL
16 DETERMINATION, UNLESS AN APPEAL IS INITIATED TO A THREE-MEMBER PANEL
17 SUBJECT TO THE FOLLOWING REQUIREMENTS. THE UNITED FEDERATION OF TEACHERS
18 (UFT) MAY APPEAL TO A THREE-MEMBER PANEL THE INEFFECTIVE RATINGS OF UP
19 TO THIRTEEN PERCENT OF TEACHERS WHO RECEIVED SUCH INEFFECTIVE RATINGS
20 FOR A SCHOOL YEAR. ANY SUCH APPEAL MAY ONLY BE MADE ON THE GROUND THAT
21 THE INEFFECTIVE RATING WAS GIVEN DUE TO HARASSMENT OR REASONS NOT
22 RELATED TO JOB PERFORMANCE. THESE APPEALS SHALL BE KNOWN AS A "PANEL
23 APPEALS". THE THREE-MEMBER PANEL SHALL CONSIST OF A PERSON SELECTED BY
24 THE UFT, A PERSON SELECTED BY THE CHANCELLOR OF THE CITY SCHOOL DISTRICT
25 AND AN INDEPENDENT PERSON, NOT AFFILIATED WITH THE UFT OR THE DISTRICT
26 AND SELECTED BY THE STATE EDUCATION DEPARTMENT, WHO SHALL BE THE CHAIR
27 OF THE PANEL AND CONDUCT THE APPEAL HEARING. IF THE PANEL SUSTAINS THE
28 APPEAL, THE PRINCIPAL MUST SUBMIT TO THE PANEL A DIFFERENT RATING, WHICH
29 MUST BE APPROVED BY THE PANEL. ANY INEFFECTIVE RATING THAT IS APPEALED
30 TO THE PANEL MAY NOT BE APPEALED TO THE CHANCELLOR OF THE CITY SCHOOL
31 DISTRICT.

32 D. THE CHANCELLOR OF THE CITY SCHOOL DISTRICT SHALL NOTIFY THE UFT OF
33 ALL INEFFECTIVE RATINGS. EACH SCHOOL YEAR, IF THE UFT IS NOTIFIED OF AN
34 INEFFECTIVE RATING PRIOR TO OCTOBER FIRST, A PANEL APPEAL OF THAT RATING
35 MUST BE INITIATED BY THE UFT BY NOVEMBER FIRST, PROVIDED THAT MORE THAN
36 THIRTEEN PERCENT OF THESE RATINGS MAY BE APPEALED TO THE PANEL. THE UFT
37 AND THE BOARD OF EDUCATION SHALL NEGOTIATE, PURSUANT TO ARTICLE FOURTEEN
38 OF THE CIVIL SERVICE LAW, A PROCEDURE FOR ENSURING THAT EACH SCHOOL
39 YEAR, NOT MORE THAN THIRTEEN PERCENT OF THE RATINGS RECEIVED BY THE UFT
40 AFTER OCTOBER FIRST ARE APPEALED TO THE PANEL. THE BOARD OF EDUCATION
41 SHALL MAKE ALL REASONABLE EFFORTS TO ISSUE RATINGS AND NOTIFY THE UFT OF
42 INEFFECTIVE RATINGS BY OCTOBER FIRST. ANY RATING NOT APPEALED TO THE
43 PANEL MAY BE APPEALED BY THE INDIVIDUAL TEACHER TO THE CHANCELLOR OF THE
44 CITY SCHOOL DISTRICT. APPEALS MADE TO THE CHANCELLOR OF THE CITY SCHOOL
45 DISTRICT MUST BE FILED WITHIN TEN SCHOOL DAYS AFTER THE UFT WOULD OTHER-
46 WISE BE REQUIRED TO NOTIFY THE BOARD OF EDUCATION OF A PANEL APPEAL.

47 E. FOR ALL TEACHERS IN YEAR TWO STATUS, UNLESS AND UNTIL THE INEFFECTIVE
48 RATING THEY RECEIVED IN THE PRIOR YEAR IS CHANGED BY A PRINCIPAL OR
49 OTHERWISE CHANGED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBDIVISION,
50 AN INDEPENDENT VALIDATOR SHALL BE APPOINTED TO EVALUATE THE TEACHER ON
51 EACH COMPONENT OF THE ANNUAL PROFESSIONAL PERFORMANCE REVIEW IN WHICH
52 THE SCORING OF THE COMPONENT IS AT THE DISCRETION OF THE PRINCIPAL.
53 THESE COMPONENTS SHALL NOT NECESSARILY BE LIMITED TO TEACHER PERFORM-
54 ANCE, BUT SHALL NOT INCLUDE ANY COMPONENTS IN WHICH THE SCORING OF THE
55 COMPONENT IS OUTSIDE THE DISCRETION OF THE PRINCIPAL, EVEN IF THE PRIN-
56 CIPAL HAS DISCRETION IN A RELATED GOAL-SETTING PROCESS PRIOR TO SCORING.

1 THE INDEPENDENT VALIDATOR SHALL PERFORM THREE OBSERVATIONS DURING THE
2 COURSE OF THE SCHOOL YEAR. THE TERMS AND CONDITIONS OF THE OBSERVATIONS
3 SHALL BE NEGOTIATED PURSUANT TO THE REQUIREMENTS OF ARTICLE FOURTEEN OF
4 THE CIVIL SERVICE LAW.

5 F. THE UFT AND THE BOARD OF EDUCATION SHALL JOINTLY SELECT AN ORGAN-
6 IZATION OR ORGANIZATIONS THAT EMPLOY CERTIFIED EDUCATORS, INCLUDING
7 TEACHERS, TO PERFORM THE WORK AS INDEPENDENT VALIDATORS. INDEPENDENT
8 VALIDATORS SHALL NOT BE EMPLOYED SIMULTANEOUSLY BY THE BOARD OF EDUCA-
9 TION OR SIMULTANEOUSLY HAVE AN INDIVIDUAL CONTRACT WITH THE BOARD OF
10 EDUCATION. SHOULD EITHER THE BOARD OF EDUCATION OR THE UFT NOTIFY THE
11 DEPARTMENT THAT AFTER A GOOD FAITH EFFORT THE BOARD OF EDUCATION AND THE
12 UFT ARE UNABLE TO JOINTLY SELECT ORGANIZATIONS, THE COMMISSIONER SHALL
13 NAME ORGANIZATIONS SUBJECT TO THE FOLLOWING REQUIREMENTS. THE BOARD OF
14 EDUCATION SHALL SET FORTH A REQUIRED NUMBER OF VALIDATORS, AND THE
15 COMMISSIONER SHALL NAME ORGANIZATIONS THAT CAN PROVIDE AT LEAST THIS
16 NUMBER OF VALIDATORS WHOM THE COMMISSIONER DEEMS QUALIFIED. THE COMMIS-
17 SIONER SHALL NAME ORGANIZATIONS BASED ON THE CRITERIA SET FORTH IN THIS
18 SUBDIVISION THAT APPLY TO THE MUTUAL SELECTION PROCESS FOR THE BOARD OF
19 EDUCATION AND THE UFT AND SHALL ALSO CONSIDER POTENTIAL CONFLICTS OF
20 INTEREST.

21 G. IN AN INSTANCE IN WHICH THE INDEPENDENT VALIDATOR DOES NOT COMPLETE
22 THE REVIEW PROCESS DUE TO CIRCUMSTANCES BEYOND THE CONTROL OF THE BOARD
23 OF EDUCATION, THE TEACHER SHALL REMAIN IN YEAR TWO STATUS THE FOLLOWING
24 SCHOOL YEAR. SHOULD THE INDEPENDENT VALIDATOR NOT COMPLETE THE REVIEW
25 PROCESS FOR A SECOND CONSECUTIVE SCHOOL YEAR AND FOR ANY REASON IN THE
26 SECOND YEAR FOR OTHER THAN A LEAVE OF ABSENCE OR CHRONIC ABSENCE ON THE
27 PART OF THE TEACHER, THE TEACHER SHALL RETURN TO YEAR ONE STATUS THE
28 FOLLOWING SCHOOL YEAR.

29 H. AN INDEPENDENT VALIDATOR SHALL BE DEEMED TO HAVE AGREED WITH THE
30 PRINCIPAL WHEN AN INDEPENDENT VALIDATOR'S SCORING, IN CONJUNCTION WITH
31 THE SCORING OF COMPONENTS NOT REVIEWED BY THE INDEPENDENT VALIDATOR IN
32 ACCORDANCE WITH THIS SUBDIVISION, WOULD RESULT IN A RATING IN THE SAME
33 CATEGORY ON THE ANNUAL PROFESSIONAL PERFORMANCE REVIEW THAN WOULD RESULT
34 FROM THE PRINCIPAL'S RATING.

35 I. FOR PURPOSES OF THIS SUBDIVISION, AN INDEPENDENT VALIDATOR SHALL BE
36 DEEMED TO HAVE DISAGREED WITH THE PRINCIPAL WHEN AN INDEPENDENT
37 VALIDATOR'S SCORING, IN CONJUNCTION WITH THE SCORING OF COMPONENTS NOT
38 REVIEWED BY THE INDEPENDENT VALIDATOR IN ACCORDANCE WITH THIS SUBDIVI-
39 SION, WOULD RESULT IN A RATING IN A DIFFERENT CATEGORY ON THE ANNUAL
40 PROFESSIONAL PERFORMANCE REVIEW THAN WOULD RESULT FROM THE PRINCIPAL'S
41 RATING.

42 J. IF A TEACHER RECEIVES AN INEFFECTIVE RATING FOR A SCHOOL YEAR IN
43 WHICH THE TEACHER IS IN YEAR TWO STATUS AND THE INDEPENDENT VALIDATOR
44 AGREES, THE DISTRICT MAY BRING A PROCEEDING PURSUANT TO SECTIONS THREE
45 THOUSAND TWENTY AND THREE THOUSAND TWENTY-A OF THIS ARTICLE BASED ON A
46 PATTERN OF INEFFECTIVE TEACHING OR PERFORMANCE. IN SUCH PROCEEDING, THE
47 CHARGES SHALL ALLEGE THAT THE EMPLOYING BOARD HAS DEVELOPED AND SUBSTAN-
48 Tially IMPLEMENTED A TEACHER IMPROVEMENT PLAN IN ACCORDANCE WITH SUBDI-
49 VISION FOUR OF THIS SECTION FOR THE EMPLOYEE FOLLOWING THE EVALUATION
50 MADE FOR THE YEAR IN WHICH THE EMPLOYEE WAS IN YEAR ONE STATUS AND WAS
51 RATED INEFFECTIVE. THE PATTERN OF INEFFECTIVE TEACHING OR PERFORMANCE
52 SHALL GIVE RISE TO A REBUTTABLE PRESUMPTION OF INCOMPETENCE AND IF THE
53 PRESUMPTION IS NOT SUCCESSFULLY REBUTTED, THE FINDING, ABSENT EXTRAOR-
54 DINARY CIRCUMSTANCES, SHALL BE JUST CAUSE FOR REMOVAL. IN THESE HEAR-
55 INGS, THE TEACHER SHALL HAVE UP TO THREE DAYS TO PRESENT HIS OR HER CASE
56 FOR EVERY ONE DAY USED BY THE DISTRICT TO PRESENT ITS CASE. THE HEARING

OFFICER SHALL RENDER A WRITTEN DECISION WITHIN TEN DAYS OF THE LAST DAY OF THE HEARING.

K. IF THE TEACHER RECEIVES AN INEFFECTIVE RATING BY THE PRINCIPAL IN A SCHOOL YEAR IN WHICH THEY ARE IN YEAR TWO STATUS AND THE INDEPENDENT VALIDATOR DISAGREES, THE INEFFECTIVE RATING REMAINS BUT THE DISTRICT MAY NOT BRING PROCEEDING BASED ON A PATTERN OF INEFFECTIVE TEACHING OR PERFORMANCE, AS DEFINED IN THIS SECTION, PROVIDED HOWEVER THAT NOTHING IN THIS SECTION SHALL PREVENT THE BOARD OF EDUCATION FROM CHARGING A TEACHER BASED ON INCOMPETENCE AND ENTERING THE PRINCIPAL'S EVALUATIONS INTO EVIDENCE.

L. IF UPON THE COMPLETION OF A HEARING PURSUANT TO SECTIONS THREE THOUSAND TWENTY AND THREE THOUSAND TWENTY-A OF THIS ARTICLE, BASED EITHER ON A PATTERN OF INEFFECTIVE TEACHING OR PERFORMANCE OR CHARGES OF INCOMPETENCE IN WHICH YEAR ONE OR YEAR TWO EVALUATIONS WERE ENTERED INTO EVIDENCE, AND A HEARING OFFICER FINDS THE TEACHER INCOMPETENT, BUT DECIDES NOT TO TERMINATE, THE TEACHER REMAINS IN YEAR TWO STATUS FOR THE SCHOOL YEAR IN PROGRESS OR THE FOLLOWING SCHOOL YEAR IF THE FINDING IS MADE IN BETWEEN SCHOOL YEARS. IF UPON THE COMPLETION OF THE HEARING, THE HEARING OFFICER EXONERATES THE TEACHER OF CHARGES OF INCOMPETENCE THE TEACHER SHALL REVERT TO YEAR ONE STATUS IF IN THE MIDDLE OF THE SCHOOL YEAR OR AT THE BEGINNING OF THE FOLLOWING SCHOOL YEAR IF THE FINDING IS MADE IN BETWEEN SCHOOL YEARS.

M. IF THE TEACHER RECEIVES AN INEFFECTIVE RATING IN YEAR TWO BY THE PRINCIPAL AND THE VALIDATOR AGREES, AND THE DISTRICT DOES NOT BRING AN EXPEDITED PROCEEDING PURSUANT TO SECTIONS THREE THOUSAND TWENTY AND THREE THOUSAND TWENTY-A OF THIS ARTICLE, THE TEACHER MAY APPEAL THE YEAR TWO INEFFECTIVE RATING TO THE CHANCELLOR OF THE CITY SCHOOL DISTRICT, WHO SHALL MAKE A FINAL DETERMINATION. IF THE RATING IS UPHELD, THE TEACHER SHALL REMAIN IN YEAR TWO STATUS FOR THE SUBSEQUENT SCHOOL YEAR, BUT IF FOLLOWING THAT YEAR THE TEACHER IS NOT CHARGED, THE TEACHER REVERTS TO YEAR ONE STATUS FOR THE NEXT SCHOOL YEAR.

N. A PROCESS SHALL BE ESTABLISHED TO EVALUATE THE EFFECTIVENESS OF THE SPECIFIC PROCEDURES ESTABLISHED IN THIS SUBDIVISION AFTER TWO YEARS FROM THE EFFECTIVE DATE OF THIS SUBDIVISION, PROVIDED HOWEVER THAT A FAILURE OR DELAY IN ESTABLISHING THAT PROCESS SHALL NOT INVALIDATE ANY PROVISIONS OF THIS SUBDIVISION.

O. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE BOARD OF EDUCATION AND THE UFT MAY ALTER ANY PROVISIONS OF THIS SUBDIVISION THROUGH COLLECTIVE BARGAINING.

S 2. (a) The appeals process will go into effect on January 16, 2013, unless the city school district of the city of New York enters into a collectively bargained teacher evaluation and appeals plan in conformity with section 3012-c of the education law and with the approval of the commissioner of education.

(b) The chancellor of the District shall notify the legislative bill drafting commission upon the occurrence of the events provided for in subdivision (a) of this section in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

PART B

Section 1. Section 3020-a of the education law, as amended by chapter 691 of the laws of 1994, paragraph (b) of subdivision 2 as separately

1 amended by chapters 296 and 325 of the laws of 2008, paragraph (c) of
2 subdivision 2 and paragraph a of subdivision 3 as amended and subpara-
3 graph (i-a) of paragraph c of subdivision 3 as added by chapter 103 of
4 the laws of 2010, is amended to read as follows:

5 S 3020-a. Disciplinary procedures and penalties. 1. Filing of charges.
6 All charges against a person enjoying the benefits of tenure as provided
7 in subdivision three of section [one thousand one] ELEVEN hundred two,
8 and sections [two thousand five] TWENTY-FIVE hundred nine, [two thousand
9 five] TWENTY-FIVE hundred seventy-three, twenty-five hundred ninety-j,
10 three thousand twelve and three thousand fourteen of this chapter shall
11 be in writing and filed with the clerk or secretary of the school
12 district or employing board during the period between the actual opening
13 and closing of the school year for which the employed is normally
14 required to serve. Except as provided in subdivision eight of section
15 [two thousand five] TWENTY-FIVE hundred seventy-three and subdivision
16 seven of section twenty-five hundred ninety-j of this chapter, no charg-
17 es under this section shall be brought more than three years after the
18 occurrence of the alleged incompetency or misconduct, except when the
19 charge is of misconduct constituting a crime when committed.

20 2. [(a)] Disposition of charges. A. Upon receipt of the charges, the
21 clerk or secretary of the school district or employing board shall imme-
22 diately notify said board thereof. Within five days after receipt of
23 charges, the employing board, in executive session, shall determine, by
24 a vote of a majority of all the members of such board, whether probable
25 cause exists to bring a disciplinary proceeding against an employee
26 pursuant to this section. If such determination is affirmative, a writ-
27 ten statement specifying (I) the charges in detail, (II) the maximum
28 penalty which will be imposed by the board if the employee does not
29 request a hearing or that will be sought by the board if the employee is
30 found guilty of the charges after a hearing, (III) THE RESPONSIBILITY OF
31 THE EMPLOYEE OR THE EMPLOYEE'S COLLECTIVE BARGAINING UNIT, AS APPLICA-
32 BLE, TO PAY A SHARE OF HEARING COSTS UNDER THE CIRCUMSTANCES SET FORTH
33 IN PARAGRAPHS B AND C OF SUBDIVISION THREE OF THIS SECTION, and [outlin-
34 ing] (IV) the employee's rights under this section, shall be immediately
35 forwarded to the accused employee by certified or registered mail,
36 return receipt requested or by personal delivery to the employee.

37 [(b)] B. The employee may be suspended pending a hearing on the charg-
38 es and the final determination thereof. The suspension shall be with
39 pay, except the employee may be suspended without pay if the employee
40 has entered a guilty plea to or has been convicted of a felony crime
41 concerning the criminal sale or possession of a controlled substance, a
42 precursor of a controlled substance, or drug paraphernalia as defined in
43 article two hundred twenty or two hundred twenty-one of the penal law;
44 or a felony crime involving the physical abuse of a minor or student.
45 The employee shall be terminated without a hearing, as provided for in
46 this section, upon conviction of a sex offense, as defined in subpara-
47 graph two of paragraph b of subdivision seven-a of section three hundred
48 five of this chapter. To the extent this section applies to an employee
49 acting as a school administrator or supervisor, as defined in subpara-
50 graph three of paragraph b of subdivision seven-b of section three
51 hundred five of this chapter, such employee shall be terminated without
52 a hearing, as provided for in this section, upon conviction of a felony
53 offense defined in subparagraph two of paragraph b of subdivision
54 seven-b of section three hundred five of this chapter.

55 [(c)] C. Within ten days of receipt of the statement of charges, the
56 employee shall notify the clerk or secretary of the employing board in

1 writing whether he or she desires a hearing on the charges and when the
2 charges concern pedagogical incompetence or issues involving pedagogical
3 judgment, his or her choice of either a single hearing officer or a
4 three member panel, provided that a three member panel shall not be
5 available where the charges concern pedagogical incompetence based sole-
6 ly upon a teacher's or principal's pattern of ineffective teaching or
7 performance as defined in section three thousand twelve-c of this arti-
8 cle. All other charges shall be heard by a single hearing officer.

9 [(d)] D. The unexcused failure of the employee to notify the clerk or
10 secretary of his or her desire for a hearing within ten days of the
11 receipt of charges shall be deemed a waiver of the right to a hearing.
12 Where an employee requests a hearing in the manner provided for by this
13 section, the clerk or secretary of the board shall, within three working
14 days of receipt of the employee's notice or request for a hearing, noti-
15 fy the commissioner [of education] of the need for a hearing. If the
16 employee waives his or her right to a hearing the employing board shall
17 proceed, within fifteen days, by a vote of a majority of all members of
18 such board, to determine the case and fix the penalty, if any, to be
19 imposed in accordance with subdivision four of this section.

20 3. Hearings. a. Notice of hearing. Upon receipt of a request for a
21 hearing in accordance with subdivision two of this section, the commis-
22 sioner shall forthwith notify the American Arbitration Association
23 (hereinafter "association") of the need for a hearing and shall request
24 the association to provide to the commissioner forthwith a list of names
25 of persons chosen by the association from the association's panel of
26 labor arbitrators to potentially serve as hearing officers together with
27 relevant biographical information on each arbitrator. Upon receipt of
28 said list and biographical information, the commissioner shall forthwith
29 send a copy of both simultaneously to the employing board and the
30 employee. The commissioner shall also simultaneously notify both the
31 employing board and the employee of each potential hearing officer's
32 record in the last five cases of commencing and completing hearings
33 within the time periods prescribed in this section.

34 b. (i) Hearing officers. All hearings pursuant to this section shall
35 be conducted before and by a single hearing officer selected as provided
36 for in this section. A hearing officer shall not be eligible to serve
37 [as such] IN SUCH POSITION if he or she is a resident of the school
38 district, other than the city of New York, under the jurisdiction of the
39 employing board, an employee, agent or representative of the employing
40 board or of any labor organization representing employees of such
41 employing board, has served as such agent or representative within two
42 years of the date of the scheduled hearing, or if he or she is then
43 serving as a mediator or fact finder in the same school district.

44 (A) Notwithstanding any other provision of law, FOR HEARINGS COMMENCED
45 BY THE FILING OF CHARGES PRIOR TO APRIL FIRST, TWO THOUSAND TWELVE, the
46 hearing officer shall be compensated by the department with the custom-
47 ary fee paid for service as an arbitrator under the auspices of the
48 association for each day of actual service plus necessary travel and
49 other reasonable expenses incurred in the performance of his or her
50 duties. All other expenses of the disciplinary proceedings COMMENCED BY
51 THE FILING OF CHARGES PRIOR TO APRIL FIRST, TWO THOUSAND TWELVE shall be
52 paid in accordance with rules promulgated by the commissioner [of educa-
53 tion]. CLAIMS FOR SUCH COMPENSATION FOR DAYS OF ACTUAL SERVICE AND
54 REIMBURSEMENT FOR NECESSARY TRAVEL AND OTHER EXPENSES FOR HEARINGS
55 COMMENCED BY THE FILING OF CHARGES PRIOR TO APRIL FIRST, TWO THOUSAND
56 TWELVE SHALL BE PAID FROM AN APPROPRIATION FOR SUCH PURPOSE IN THE ORDER

1 IN WHICH THEY HAVE BEEN APPROVED BY THE COMMISSIONER FOR PAYMENT,
2 PROVIDED PAYMENT SHALL FIRST BE MADE FOR ANY OTHER HEARING COSTS PAYABLE
3 BY THE COMMISSIONER, INCLUDING THE COSTS OF TRANSCRIBING THE RECORD, AND
4 PROVIDED FURTHER THAT NO SUCH CLAIM SHALL BE SET ASIDE FOR INSUFFICIENCY
5 OF FUNDS TO MAKE A COMPLETE PAYMENT, BUT SHALL BE ELIGIBLE FOR A PARTIAL
6 PAYMENT IN ONE YEAR AND SHALL RETAIN ITS PRIORITY DATE STATUS FOR APPRO-
7 PRIATIONS DESIGNATED FOR SUCH PURPOSE IN FUTURE YEARS.

8 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO
9 THE CONTRARY, FOR HEARINGS COMMENCED BY THE FILING OF CHARGES ON OR
10 AFTER APRIL FIRST, TWO THOUSAND TWELVE, THE HEARING OFFICER SHALL BE
11 COMPENSATED FOR HIS OR HER ACTUAL HOURS OF SERVICE RENDERED IN THE
12 PERFORMANCE OF HIS OR HER DUTIES AS A HEARING OFFICER, PLUS ANY NECES-
13 SARY TRAVEL OR OTHER EXPENSES INCURRED IN THE PERFORMANCE OF SUCH DUTIES
14 IN ACCORDANCE WITH THE PROVISIONS OF THIS CLAUSE AND CLAUSE (C) OF THIS
15 SUBPARAGRAPH. THE COMMISSIONER SHALL ESTABLISH MAXIMUM RATES FOR THE
16 COMPENSATION OF HEARING OFFICERS AND LIMITATIONS ON THE NUMBER OF STUDY
17 HOURS THAT MAY BE CLAIMED.

18 (C) THE COSTS OF COMPENSATING HEARING OFFICERS FOR ACTUAL HOURS OF
19 SERVICE, PLUS ANY NECESSARY TRAVEL AND OTHER EXPENSES INCURRED IN THE
20 PERFORMANCE OF SUCH DUTIES IN ACCORDANCE WITH CLAUSE (B) OF THIS SUBPAR-
21 AGRAPH AND THE REGULATIONS OF THE COMMISSIONER SHALL BE DIVIDED EQUALLY
22 BETWEEN THE EMPLOYING BOARD AND THE EMPLOYEE'S BARGAINING AGENT OR THE
23 EMPLOYEE IF NOT REPRESENTED BY A BARGAINING UNIT. UPON VERIFICATION AND
24 APPROVAL BY THE EMPLOYING BOARD AND THE EMPLOYEE OR THE EMPLOYEE'S
25 BARGAINING AGENT FOLLOWING COMPLETION OF THE HEARING, CLAIMS FOR PAYMENT
26 FOR SUCH SERVICES SHALL BE SUBMITTED TO THE RESPONSIBLE PARTIES.

27 (ii) Not later than ten days after the date the commissioner mails to
28 the employing board and the employee the list of potential hearing offi-
29 cers and biographies provided to the commissioner by the association,
30 the employing board and the employee, individually or through their
31 agents or representatives, shall by mutual agreement select a hearing
32 officer from said list to conduct the hearing and shall notify the
33 commissioner of their selection.

34 (iii) If the employing board and the employee fail to agree on an
35 arbitrator to serve as a hearing officer from said list and so notify
36 the commissioner within ten days after receiving the list from the
37 commissioner, the commissioner shall request the association to appoint
38 a hearing officer from said list.

39 (iv) In those cases in which the employee elects to have the charges
40 heard by a hearing panel, the hearing panel shall consist of the hearing
41 officer, selected in accordance with this subdivision, and two addi-
42 tional persons, one selected by the employee and one selected by the
43 employing board, from a list maintained for such purpose by the commis-
44 sioner [of education]. The list shall be composed of professional
45 personnel with administrative or supervisory responsibility, profes-
46 sional personnel without administrative or supervisory responsibility,
47 chief school administrators, members of employing boards and others
48 selected from lists of nominees submitted to the commissioner by state-
49 wide organizations representing teachers, school administrators and
50 supervisors and the employing boards. Hearing panel members other than
51 the hearing officer shall be compensated [by the department of educa-
52 tion] at the rate of one hundred dollars for each day of actual service
53 [plus] AND SHALL BE REIMBURSED FOR necessary travel and subsistence
54 expenses IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF CLAUSE (A) OR
55 CLAUSE (C) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH. The hearing officer

1 shall be compensated as set forth in this subdivision. The hearing officer shall be the [chairman] CHAIRPERSON of the hearing panel.

2 c. Hearing procedures. (i) (A) The commissioner [of education] shall have the power to establish necessary rules and procedures for the conduct of hearings under this section WHICH, FOR HEARINGS OTHER THAN EXPEDITED HEARINGS PURSUANT TO SUBPARAGRAPH (I-A) OF THIS PARAGRAPH, SHALL INCLUDE SPECIFIC TIMELINE REQUIREMENTS FOR CONDUCTING A HEARING AND FOR RENDERING A FINAL DECISION.

3 (B) THE DEPARTMENT SHALL BE AUTHORIZED TO MONITOR AND INVESTIGATE A HEARING OFFICER'S COMPLIANCE WITH SUCH TIMELINES, AS SET FORTH IN THE REGULATIONS OF THE COMMISSIONER. THE COMMISSIONER SHALL ANNUALLY INFORM ALL HEARING OFFICERS WHO HAVE HEARD CASES PURSUANT TO THIS SECTION DURING THE PRECEDING YEAR THAT THE TIME PERIODS PRESCRIBED IN THE REGULATIONS OF THE COMMISSIONER FOR CONDUCTING SUCH HEARINGS ARE TO BE STRICTLY FOLLOWED. A RECORD OF CONTINUED FAILURE TO COMMENCE AND COMPLETE HEARINGS WITHIN THE TIME PERIODS PRESCRIBED IN THE REGULATIONS AUTHORIZED BY THIS SUBPARAGRAPH SHALL BE CONSIDERED GROUNDS FOR THE COMMISSIONER TO EXCLUDE SUCH INDIVIDUAL FROM THE LIST OF POTENTIAL HEARING OFFICERS SENT TO THE EMPLOYING BOARD AND THE EMPLOYEE FOR SUCH HEARINGS.

4 (C) Such rules shall not require compliance with technical rules of evidence. Hearings shall be conducted by the hearing officer selected pursuant to paragraph b of this subdivision with full and fair disclosure of the nature of the case and evidence against the employee by the employing board and shall be public or private at the discretion of the employee. The employee shall have a reasonable opportunity to defend himself or herself and an opportunity to testify in his or her own behalf. The employee shall not be required to testify. Each party shall have the right to be represented by counsel, to subpoena witnesses, and to cross-examine witnesses. All testimony taken shall be under oath which the hearing officer is hereby authorized to administer.

5 [A] (D) FOR HEARINGS COMMENCED BY THE FILING OF CHARGES PRIOR TO APRIL FIRST, TWO THOUSAND TWELVE, A competent stenographer, designated by the commissioner [of education] and compensated by the [state education] department, shall keep and transcribe a record of the proceedings at each such hearing. A copy of the transcript of the hearings shall, upon request, be furnished without charge to the employee and the board of education involved.

6 (E) HEARINGS COMMENCED BY THE FILING OF CHARGES ON OR AFTER APRIL FIRST, TWO THOUSAND TWELVE, SHALL NOT BE RECORDED BY A STENOGRAPHER OR ANY OTHER RECORDING MECHANISM UNLESS BOTH PARTIES AGREE PRIOR TO THE COMMENCEMENT OF THE DISCIPLINARY HEARING. THE PARTY REQUESTING A TRANSCRIPT OR RECORDING AT A DISCIPLINARY HEARING MAY PROVIDE FOR ONE AT ITS OWN EXPENSE AND SHALL PROVIDE A COPY TO THE ARBITRATOR AND THE OTHER PARTY UNLESS BOTH PARTIES AGREE TO SHARE THE COST OF SUCH TRANSCRIPT OR RECORDING. THE USE OF A TRANSCRIPT CANNOT DELAY THE HEARING AND SHALL NOT EXTEND THE DATE THE HEARING IS CLOSED.

7 (i-a)(A) Where charges of incompetence are brought based solely upon a pattern of ineffective teaching or performance of a classroom teacher or principal, as defined in section three thousand twelve-c of this article, the hearing shall be conducted before and by a single hearing officer in an expedited hearing, which shall commence within seven days after the pre-hearing conference and shall be completed within sixty days after the pre-hearing conference. The hearing officer shall establish a hearing schedule at the pre-hearing conference to ensure that the expedited hearing is completed within the required timeframes and to

1 ensure an equitable distribution of days between the employing board and
2 the charged employee. Notwithstanding any other law, rule or regulation
3 to the contrary, no adjournments may be granted that would extend the
4 hearing beyond such sixty days, except as authorized in this subpara-
5 graph. A hearing officer, upon request, may grant a limited and time
6 specific adjournment that would extend the hearing beyond such sixty
7 days if the hearing officer determines that the delay is attributable to
8 a circumstance or occurrence substantially beyond the control of the
9 requesting party and an injustice would result if the adjournment were
10 not granted.

11 (B) Such charges shall allege that the employing board has developed
12 and substantially implemented a teacher or principal improvement plan in
13 accordance with subdivision four of section three thousand twelve-c of
14 this article for the employee following the first evaluation in which
15 the employee was rated ineffective, and the immediately preceding evalu-
16 ation if the employee was rated developing. Notwithstanding any other
17 provision of law to the contrary, a pattern of ineffective teaching or
18 performance as defined in section three thousand twelve-c of this arti-
19 cle shall constitute very significant evidence of incompetence for
20 purposes of this section. Nothing in this subparagraph shall be
21 construed to limit the defenses which the employee may place before the
22 hearing officer in challenging the allegation of a pattern of ineffec-
23 tive teaching or performance.

24 (C) The commissioner shall annually inform all hearing officers who
25 have heard cases pursuant to this section during the preceding year that
26 the time periods prescribed in this subparagraph for conducting expe-
27 dited hearings are to be strictly followed. A record of continued fail-
28 ure to commence and complete expedited hearings within the time periods
29 prescribed in this subparagraph shall be considered grounds for the
30 commissioner to exclude such individual from the list of potential hear-
31 ing officers sent to the employing board and the employee for such expe-
32 dited hearings.

33 (ii) The hearing officer selected to conduct a hearing under this
34 section shall, within ten to fifteen days of agreeing to serve [as such]
35 IN SUCH POSITION, hold a pre-hearing conference which shall be held in
36 the school district or county seat of the county, or any county, wherein
37 the employing school board is located. The pre-hearing conference shall
38 be limited in length to one day except that the hearing officer, in his
39 or her discretion, may allow one additional day for good cause shown.

40 (iii) At the pre-hearing conference the hearing officer shall have the
41 power to:

42 (A) issue subpoenas;

43 (B) hear and decide all motions, including but not limited to motions
44 to dismiss the charges;

45 (C) hear and decide all applications for bills of particular or
46 requests for production of materials or information, including, but not
47 limited to, any witness statement (or statements), investigatory state-
48 ment (or statements) or note (notes), exculpatory evidence or any other
49 evidence, including district or student records, relevant and material
50 to the employee's defense.

51 (iv) Any pre-hearing motion or application relative to the sufficiency
52 of the charges, application or amendment thereof, or any preliminary
53 matters shall be made upon written notice to the hearing officer and the
54 adverse party no less than five days prior to the date of the pre-hear-
55 ing conference. Any pre-hearing motions or applications not made as

provided for herein shall be deemed waived except for good cause as determined by the hearing officer.

(v) In the event that at the pre-hearing conference the employing board presents evidence that the professional license of the employee has been revoked and all judicial and administrative remedies have been exhausted or foreclosed, the hearing officer shall schedule the date, time and place for an expedited hearing, which hearing shall commence not more than seven days after the pre-hearing conference and which shall be limited to one day. The expedited hearing shall be held in the local school district or county seat of the county or any county, wherein the said employing board is located. The expedited hearing shall not be postponed except upon the request of a party and then only for good cause as determined by the hearing officer. At such hearing, each party shall have equal time in which to present its case.

(vi) During the pre-hearing conference, the hearing officer shall determine the reasonable amount of time necessary for a final hearing on the charge or charges and shall schedule the location, time(s) and date(s) for the final hearing. The final hearing shall be held in the local school district or county seat of the county, or any county, wherein the said employing school board is located. In the event that the hearing officer determines that the nature of the case requires the final hearing to last more than one day, the days that are scheduled for the final hearing shall be consecutive. The day or days scheduled for the final hearing shall not be postponed except upon the request of a party and then only for good cause shown as determined by the hearing officer. In all cases, the final hearing shall be completed no later than sixty days after the pre-hearing conference unless the hearing officer determines that extraordinary circumstances warrant a limited extension.

D. LIMITATION ON CLAIMS. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, NO PAYMENTS SHALL BE MADE BY THE DEPARTMENT PURSUANT TO THIS SUBDIVISION ON OR AFTER APRIL FIRST, TWO THOUSAND TWELVE FOR: (I) COMPENSATION OF A HEARING OFFICER OR HEARING PANEL MEMBER, (II) REIMBURSEMENT OF SUCH HEARING OFFICERS OR PANEL MEMBERS FOR NECESSARY TRAVEL OR OTHER EXPENSES INCURRED BY THEM, OR (III) FOR OTHER HEARING EXPENSES ON A CLAIM SUBMITTED LATER THAN ONE YEAR AFTER THE FINAL DISPOSITION OF THE HEARING BY ANY MEANS, INCLUDING SETTLEMENT, OR WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH, WHICHEVER IS LATER; PROVIDED THAT NO PAYMENT SHALL BE BARRED OR REDUCED WHERE SUCH PAYMENT IS REQUIRED AS A RESULT OF A COURT ORDER OR JUDGMENT OR A FINAL AUDIT.

4. Post hearing procedures. [(a)] A. The hearing officer shall render a written decision within thirty days of the last day of the final hearing, or in the case of an expedited hearing within ten days of such expedited hearing, and shall [forthwith] forward a copy thereof to the commissioner [of education] who shall immediately forward copies of the decision to the employee and to the clerk or secretary of the employing board. The written decision shall include the hearing officer's findings of fact on each charge, his or her conclusions with regard to each charge based on said findings and shall state what penalty or other action, if any, shall be taken by the employing board. At the request of the employee, in determining what, if any, penalty or other action shall be imposed, the hearing officer shall consider the extent to which the employing board made efforts towards correcting the behavior of the employee which resulted in charges being brought under this section through means including but not limited to: remediation, peer inter-

vention or an employee assistance plan. In those cases where a penalty is imposed, such penalty may be a written reprimand, a fine, suspension for a fixed time without pay, or dismissal. In addition to or in lieu of the aforementioned penalties, the hearing officer, where he or she deems appropriate, may impose upon the employee remedial action including but not limited to leaves of absence with or without pay, continuing education and/or study, a requirement that the employee seek counseling or medical treatment or that the employee engage in any other remedial or combination of remedial actions.

[(b)] B. Within fifteen days of receipt of the hearing officer's decision the employing board shall implement the decision. If the employee is acquitted he or she shall be restored to his or her position with full pay for any period of suspension without pay and the charges expunged from the employment record. If an employee who was convicted of a felony crime specified in paragraph [(b)] B of subdivision two of this section, has said conviction reversed, the employee, upon application, shall be entitled to have his OR HER pay and other emoluments restored, for the period from the date of his OR HER suspension to the date of the decision.

[(c)] C. The hearing officer shall indicate in the decision whether any of the charges brought by the employing board were frivolous as defined in section [eight thousand three] EIGHTY-THREE hundred three-a of the civil practice law and rules. If the hearing [officers] OFFICER finds that all of the charges brought against the employee were frivolous, the hearing officer shall order the employing board to reimburse the [state education] department the reasonable costs said department incurred as a result of the proceeding and to reimburse the employee the reasonable costs, including but not limited to reasonable attorneys' fees, the employee incurred in defending the charges. If the hearing officer finds that some but not all of the charges brought against the employee were frivolous, the hearing officer shall order the employing board to reimburse the [state education] department a portion, in the discretion of the hearing officer, of the reasonable costs said department incurred as a result of the proceeding and to reimburse the employee a portion, in the discretion of the hearing officer, of the reasonable costs, including but not limited to reasonable attorneys' fees, the employee incurred in defending the charges.

5. Appeal. A. Not later than ten days after receipt of the hearing officer's decision, the employee or the employing board may make an application to the New York state supreme court to vacate or modify the decision of the hearing officer pursuant to section [seven thousand five] SEVENTY-FIVE hundred eleven of the civil practice law and rules. The court's review shall be limited to the grounds set forth in such section. The hearing panel's determination shall be deemed to be final for the purpose of such proceeding.

B. In no case shall the filing or the pendency of an appeal delay the implementation of the decision of the hearing officer.

S 2. This act shall take effect immediately, except that if this act shall have become a law on or after April 1, 2012 this act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2012.

PART C

Section 1. Paragraphs (a), (b), (c) and (d) of subdivision 1 of section 131-o of the social services law, as amended by section 1 of

1 part S of chapter 58 of the laws of 2011, are amended to read as
2 follows:

3 (a) in the case of each individual receiving family care, an amount
4 equal to at least [\$130.00] \$135.00 for each month beginning on or after
5 January first, two thousand [eleven] TWELVE.

6 (b) in the case of each individual receiving residential care, an
7 amount equal to at least [\$150.00] \$155.00 for each month beginning on
8 or after January first, two thousand [eleven] TWELVE.

9 (c) in the case of each individual receiving enhanced residential
10 care, an amount equal to at least [\$178.00] \$184.00 for each month
11 beginning on or after January first, two thousand [eleven] TWELVE.

12 (d) for the period commencing January first, two thousand [twelve]
13 THIRTEEN, the monthly personal needs allowance shall be an amount equal
14 to the sum of the amounts set forth in subparagraphs one and two of this
15 paragraph:

16 (1) the amounts specified in paragraphs (a), (b) and (c) of this
17 subdivision; and

18 (2) the amount in subparagraph one of this paragraph, multiplied by
19 the percentage of any federal supplemental security income cost of
20 living adjustment which becomes effective on or after January first, two
21 thousand [twelve] THIRTEEN, but prior to June thirtieth, two thousand
22 [twelve] THIRTEEN, rounded to the nearest whole dollar.

23 S 2. Paragraphs (a), (b), (c), (d), (e) and (f) of subdivision 2 of
24 section 209 of the social services law, as amended by section 2 of part
25 S of chapter 58 of the laws of 2011, are amended to read as follows:

26 (a) On and after January first, two thousand [eleven] TWELVE, for an
27 eligible individual living alone, [\$761.00] \$785.00; and for an eligible
28 couple living alone, [\$1115.00] \$1152.00.

29 (b) On and after January first, two thousand [eleven] TWELVE, for an
30 eligible individual living with others with or without in-kind income,
31 [\$697.00] \$721.00; and for an eligible couple living with others with or
32 without in-kind income, [\$1057.00] \$1094.00.

33 (c) On and after January first, two thousand [eleven] TWELVE, (i) for
34 an eligible individual receiving family care, [\$940.48] \$964.48 if he or
35 she is receiving such care in the city of New York or the county of
36 Nassau, Suffolk, Westchester or Rockland; and (ii) for an eligible
37 couple receiving family care in the city of New York or the county of
38 Nassau, Suffolk, Westchester or Rockland, two times the amount set forth
39 in subparagraph (i) of this paragraph; or (iii) for an eligible individ-
40 ual receiving such care in any other county in the state, [\$902.48]
41 \$926.48; and (iv) for an eligible couple receiving such care in any
42 other county in the state, two times the amount set forth in subpara-
43 graph (iii) of this paragraph.

44 (d) On and after January first, two thousand [eleven] TWELVE, (i) for
45 an eligible individual receiving residential care, [\$1109.00] \$1133.00
46 if he or she is receiving such care in the city of New York or the coun-
47 ty of Nassau, Suffolk, Westchester or Rockland; and (ii) for an eligible
48 couple receiving residential care in the city of New York or the county
49 of Nassau, Suffolk, Westchester or Rockland, two times the amount set
50 forth in subparagraph (i) of this paragraph; or (iii) for an eligible
51 individual receiving such care in any other county in the state,
52 [\$1079.00] \$1103.00; and (iv) for an eligible couple receiving such care
53 in any other county in the state, two times the amount set forth in
54 subparagraph (iii) of this paragraph.

55 (e) (i) On and after January first, two thousand [eleven] TWELVE, for
56 an eligible individual receiving enhanced residential care, [\$1368.00]

\$1392.00; and (ii) for an eligible couple receiving enhanced residential care, two times the amount set forth in subparagraph (i) of this paragraph.

(f) The amounts set forth in paragraphs (a) through (e) of this subdivision shall be increased to reflect any increases in federal supplemental security income benefits for individuals or couples which become effective on or after January first, two thousand [twelve] THIRTEEN but prior to June thirtieth, two thousand [twelve] THIRTEEN.

S 3. This act shall take effect July 1, 2012.

PART D

Section 1. Paragraph (a-3) of subdivision 2 of section 131-a of the social services law, as amended by section 2 of part U of chapter 58 of the laws of 2011, is amended and a new paragraph (a-4) is added to read as follows:

(a-3) For the period beginning July first, two thousand twelve and [thereafter] ENDING JUNE THIRTIETH, TWO THOUSAND THIRTEEN, the following schedule shall be the standard of monthly need for determining eligibility for all categories of assistance in and by all social services districts:

Number of Persons in Household

One	Two	Three	Four	Five	Six
[\$158]	[\$252]	[\$335]	[\$432]	[\$533]	[\$616]
\$150	\$239	\$317	\$409	\$505	\$583

For each additional person in the household there shall be added an additional amount of [eighty-four] EIGHTY dollars monthly.

(A-4) FOR THE PERIOD BEGINNING JULY FIRST, TWO THOUSAND THIRTEEN AND THEREAFTER, THE FOLLOWING SHALL BE THE STANDARD OF MONTHLY NEED FOR DETERMINING ELIGIBILITY FOR ALL CATEGORIES OF ASSISTANCE IN AND BY ALL SOCIAL SERVICES DISTRICTS:

NUMBER OF PERSONS IN HOUSEHOLD

ONE	TWO	THREE	FOUR	FIVE	SIX
\$158	\$252	\$336	\$433	\$534	\$617

FOR EACH ADDITIONAL PERSON IN THE HOUSEHOLD THERE SHALL BE ADDED AN ADDITIONAL AMOUNT OF EIGHTY-FIVE DOLLARS MONTHLY.

S 2. Paragraph (a-3) of subdivision 3 of section 131-a of the social services law, as amended by section 4 of part U of chapter 58 of the laws of 2011, is amended and a new paragraph (a-4) is added to read as follows:

(a-3) For the period beginning July first, two thousand twelve and [thereafter] ENDING JUNE THIRTIETH, TWO THOUSAND THIRTEEN, persons and families determined to be eligible by the application of the standard of need prescribed by the provisions of subdivision two of this section, less any available income or resources which are not required to be disregarded by other provisions of this chapter, shall receive maximum monthly grants and allowances in all social services districts, in accordance with the following schedule, for public assistance:

Number of Persons in Household

One	Two	Three	Four	Five	Six
[\$158]	[\$252]	[\$335]	[\$432]	[\$533]	[\$616]
\$150	\$239	\$317	\$409	\$505	\$583

For each additional person in the household there shall be added an additional amount of [eighty-four] EIGHTY dollars monthly.

(A-4) FOR THE PERIOD BEGINNING JULY FIRST, TWO THOUSAND THIRTEEN AND THEREAFTER, PERSONS AND FAMILIES DETERMINED TO BE ELIGIBLE BY THE APPLI-

CATION OF THE STANDARD OF NEED PRESCRIBED BY THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION, LESS ANY AVAILABLE INCOME OR RESOURCES WHICH ARE NOT REQUIRED TO BE DISREGARDED BY OTHER PROVISIONS OF THIS CHAPTER, SHALL RECEIVE MAXIMUM MONTHLY GRANTS AND ALLOWANCES IN ALL SOCIAL SERVICES DISTRICTS, IN ACCORDANCE WITH THE FOLLOWING SCHEDULE, FOR PUBLIC ASSISTANCE:

NUMBER OF PERSONS IN HOUSEHOLD

ONE	TWO	THREE	FOUR	FIVE	SIX
\$158	\$252	\$336	\$433	\$534	\$617

FOR EACH ADDITIONAL PERSON IN THE HOUSEHOLD THERE SHALL BE ADDED AN ADDITIONAL AMOUNT OF EIGHTY-FIVE DOLLARS MONTHLY.

S 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2012.

PART E

Section 1. Paragraph (f) of subdivision 3 of section 22 of the social services law, as relettered by chapter 611 of the laws of 1979, is relettered paragraph (g) and a new paragraph (f) is added to read as follows:

(F) UNLESS AN AGREEMENT IS IN EFFECT FOR FEDERAL ADMINISTRATION OF ADDITIONAL STATE PAYMENTS PURSUANT TO SECTION TWO HUNDRED ELEVEN OF THIS CHAPTER, APPLICANTS FOR AND RECIPIENTS OF ADDITIONAL STATE PAYMENTS AS DEFINED IN SUBDIVISION TWO OF SECTION TWO HUNDRED EIGHT OF THIS CHAPTER; AND

S 2. Subdivision 2 of section 208 of the social services law, as added by chapter 1080 of the laws of 1974, is amended to read as follows:

2. "Additional state payments" shall mean payments made to aged, blind and disabled persons who are receiving, or who would but for their income be eligible to receive, federal supplemental security income benefits, whether made by [social services districts] THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE in accordance with the provisions of this title and with title sixteen of the federal social security act, or by the [secretary] COMMISSIONER of the [federal department of health, education and welfare] UNITED STATES SOCIAL SECURITY ADMINISTRATION, pursuant to and in accordance with the provisions of this title, title sixteen of the federal social security act, and provisions of any agreement entered into between the state and such [secretary] COMMISSIONER by which the [secretary] COMMISSIONER agrees to administer such additional state payments on behalf of the state. SUCH PAYMENTS ARE EQUAL TO THE STANDARD OF NEED, LESS THE GREATER OF THE FEDERAL BENEFIT RATE OR COUNTABLE INCOME. FOR PURPOSES OF THIS TITLE, THE "FEDERAL BENEFIT RATE" SHALL MEAN THE MAXIMUM PAYMENT OF SUPPLEMENTAL SECURITY INCOME PAYABLE TO A PERSON OR COUPLE WITH NO COUNTABLE INCOME.

S 3. Section 208 of the social services law is amended by adding a new subdivision 12 to read as follows:

12. THE TERM "STANDARD OF NEED" SHALL REFER SOLELY TO THE MAXIMUM LEVEL OF INCOME A PERSON OR COUPLE MAY HAVE AND REMAIN ELIGIBLE FOR ADDITIONAL STATE PAYMENTS UNDER THIS TITLE. THE TERM APPLIES SOLELY TO THE PROGRAM OF ADDITIONAL STATE PAYMENTS AND HAS NO APPLICATION TO ANY OTHER PROGRAM OR BENEFIT.

S 4. Paragraph (a) of subdivision 1 of section 209 of the social services law, as added by chapter 1080 of the laws of 1974 and subparagraph (iv) as amended by chapter 214 of the laws of 1998, is amended to read as follows:

(a) NOTWITHSTANDING ANY LAW TO THE CONTRARY, NO PERSON SHALL BE ELIGIBLE FOR ANY PAYMENT PURSUANT TO THIS TITLE WHO IS INELIGIBLE FOR SUPPLEMENTAL SECURITY INCOME FOR ANY REASON OTHER THAN HAVING COUNTABLE INCOME EXCEEDING THE FEDERAL BENEFIT RATE FOR SUCH PROGRAM. An individual shall be eligible to receive additional state payments if he OR SHE HAS APPLIED FOR SUPPLEMENTAL SECURITY INCOME BENEFITS, HAS RECEIVED A DETERMINATION WITH RESPECT TO SUCH APPLICATION AND:

(i) is over sixty-five years of age, or is blind or disabled; and

(ii) does not have countable income in an amount equal to or greater than the standard of need established in subdivision two of this section; and

(iii) does not have countable resources in an amount equal to or greater than the amount of resources an individual or couple may have and remain eligible for supplemental security income benefits pursuant to federal law and regulations of the department; and

(iv) is a resident of the state and is either a citizen of the United States or is not an alien who is or would be ineligible for federal supplemental security income benefits solely by reason of alien status.

S 5. Subdivision 1 of section 212 of the social services law is REPEALED and a new subdivision 1 is added to read as follows:

1. IF THERE IS NO AGREEMENT IN EFFECT FOR FEDERAL ADMINISTRATION OF ADDITIONAL STATE PAYMENTS PURSUANT TO SECTION TWO HUNDRED ELEVEN OF THIS TITLE, THE COMMISSIONER OF THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE SHALL BE RESPONSIBLE FOR PROVIDING SUCH PAYMENTS TO ELIGIBLE RESIDENTS OF THE STATE AS REQUIRED BY THIS TITLE AND SHALL:

(A) ACCEPT AND PROCESS APPLICATIONS FOR ADDITIONAL STATE PAYMENTS TO BE MADE PURSUANT TO THIS TITLE;

(B) DETERMINE ELIGIBILITY FOR AND THE AMOUNT OF ADDITIONAL STATE PAYMENTS IN ACCORDANCE WITH THIS TITLE;

(C) REDETERMINE ELIGIBILITY PERIODICALLY AS THE OFFICE MAY REQUIRE; PROVIDED, HOWEVER, THAT ANY SUCH REDETERMINATIONS SHALL BE NO MORE FREQUENT THAN PROVIDED BY THE APPLICABLE REGULATIONS OF THE UNITED STATES SOCIAL SECURITY ADMINISTRATION; AND

(D) TAKE ALL OTHER ACTIONS NECESSARY TO EFFECTUATE THE PROVISIONS OF THIS TITLE.

S 6. Subparagraph 2 of paragraph (a) of subdivision 1 of section 366 of the social services law, as added by chapter 1080 of the laws of 1974, is amended to read as follows:

(2) is receiving or is eligible to receive federal supplemental security income payments and/or additional state payments[, so long as there is in effect an agreement between the state and the secretary of health, education and welfare, pursuant to section three hundred sixty-three-b of this title, for the federal determination of eligibility of aged, blind and disabled persons for medical assistance, and so long as such secretary requires, as a condition of entering into such agreement, that such person be eligible for medical assistance] PURSUANT TO TITLE SIX OF THIS ARTICLE; ANY INCONSISTENT PROVISION OF THIS CHAPTER OR OTHER LAW NOTWITHSTANDING, THE DEPARTMENT MAY DESIGNATE THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE AS ITS AGENT TO DISCHARGE ITS RESPONSIBILITY, OR SO MUCH OF ITS RESPONSIBILITY AS IS PERMITTED BY FEDERAL LAW, FOR DETERMINING ELIGIBILITY FOR MEDICAL ASSISTANCE WITH RESPECT TO PERSONS WHO ARE NOT ELIGIBLE TO RECEIVE FEDERAL SUPPLEMENTAL SECURITY INCOME PAYMENTS BUT WHO ARE RECEIVING A STATE ADMINISTERED SUPPLEMENTARY PAYMENT OR MANDATORY MINIMUM SUPPLEMENT IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION ONE OF SECTION TWO HUNDRED TWELVE OF THIS ARTICLE; or

1 S 7. This act shall take effect immediately.

2 PART F

3 Section 1. Section 28 of part C of chapter 83 of the laws of 2002,
4 amending the executive law and other laws relating to funding for chil-
5 dren and family services, as amended by section 1 of part Q of chapter
6 57 of the laws of 2009, is amended to read as follows:

7 S 28. This act shall take effect immediately; provided that sections
8 nine through eighteen and twenty through twenty-seven of this act shall
9 be deemed to have been in full force and effect on and after April 1,
10 2002; provided, however, that section fifteen of this act shall apply to
11 claims that are otherwise reimbursable by the state on or after April 1,
12 2002 except as provided in subdivision 9 of section 153-k of the social
13 services law as added by section fifteen of this act; provided further
14 however, that nothing in this act shall authorize the office of children
15 and family services to deny state reimbursement to a social services
16 district for violations of the provisions of section 153-d of the social
17 services law for services provided from January 1, 1994 through March
18 31, 2002; provided that section nineteen of this act shall take effect
19 September 13, 2002 AND SHALL EXPIRE AND BE DEEMED REPEALED JUNE 30,
20 2012; and, provided further, however, that notwithstanding any law to
21 the contrary, the office of children and family services shall have the
22 authority to promulgate, on an emergency basis, any rules and regu-
23 lations necessary to implement the requirements established pursuant to
24 this act; provided further, however, that the regulations to be devel-
25 oped pursuant to section one of this act shall not be adopted by emer-
26 gency rule; and provided further that the provisions of sections nine
27 THROUGH EIGHTEEN AND TWENTY through twenty-seven of this act shall
28 expire and be deemed repealed on June 30, [2012] 2017.

29 S 2. Paragraph (a) of subdivision 1 of section 153-k of the social
30 services law, as added by section 15 of part C of chapter 83 of the laws
31 of 2002, is amended to read as follows:

32 (a) Expenditures made by social services districts for child protec-
33 tive services, preventive services provided, as applicable, to eligible
34 children and families of children who are in and out of foster care
35 placement, independent living services, aftercare services, and adoption
36 administration and services other than adoption subsidies provided
37 pursuant to article six of this chapter and the regulations of the
38 department of family assistance shall, if approved by the office of
39 children and family services, be subject to [sixty-five] SIXTY-TWO
40 percent state reimbursement exclusive of any federal funds made avail-
41 able for such purposes, in accordance with the directives of the depart-
42 ment of family assistance and subject to the approval of the director of
43 the budget.

44 S 3. Paragraph (a) of subdivision 2 of section 153-k of the social
45 services law, as added by section 15 of part C of chapter 83 of the laws
46 of 2002, is amended to read as follows:

47 (a) Notwithstanding the provisions of this chapter or of any other law
48 to the contrary, eligible expenditures by a social services district for
49 foster care services AND KINSHIP GUARDIANSHIP ASSISTANCE shall be
50 subject to reimbursement with state funds only to the extent of annual
51 appropriations to the state foster care block grant. Such foster care
52 services shall include expenditures for the provision and administration
53 of: care, maintenance, supervision and tuition; supervision of foster
54 children placed in federally funded job corps programs; and care, main-

1 tenance, supervision and tuition for adjudicated juvenile delinquents
2 and persons in need of supervision placed in residential programs oper-
3 ated by authorized agencies and in out-of-state residential programs.
4 SUCH KINSHIP GUARDIANSHIP ASSISTANCE SHALL INCLUDE EXPENDITURES FOR THE
5 PROVISION AND ADMINISTRATION OF KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS
6 AND NON-RECURRING GUARDIANSHIP EXPENSES MADE PURSUANT TO TITLE TEN OF
7 ARTICLE SIX OF THIS CHAPTER. Social services districts must develop and
8 implement children and family services delivery systems that are
9 designed to reduce the need for and the length of foster care placements
10 and must document their efforts in the multi-year consolidated services
11 plan and the annual implementation reports submitted pursuant to section
12 thirty-four-a of this chapter.

13 S 4. Subdivision 1 of section 456 of the social services law, as
14 amended by chapter 601 of the laws of 1994, is amended to read as
15 follows:

16 1. Payments made by social services officials pursuant to the
17 provisions of this title shall, if approved by the department, be
18 subject to reimbursement by the state, in accordance with the regu-
19 lations of the department as follows: there shall be paid to each
20 social services district (a) the amount of federal funds, if any, prop-
21 erly received or to be received on account of such payments; and (b)
22 except as set forth below, [seventy-five] SIXTY-TWO per centum of such
23 payments after first deducting therefrom any federal funds properly
24 received or to be received on account thereof; provided, however, that
25 when payments under section four hundred fifty-three of this title are
26 made to a person or persons residing in a social services district whose
27 board rate exceeds that of the district making such payments, that
28 portion of the payments which exceeds the board rate of the district
29 making the payments shall be subject to reimbursement by the state in
30 the amount of one hundred per centum thereof, (c) one hundred per centum
31 of such payments after first deducting therefrom any federal funds prop-
32 erly to be received on account of such payments, for children placed out
33 for adoption by a voluntary authorized agency or for children being
34 adopted after being placed out for adoption by a voluntary authorized
35 agency in accordance with the provisions of this title, or (d) one
36 hundred per centum of such payments after first deducting therefrom any
37 federal funds properly to be received on account of such payments, for
38 children placed out for adoption or being adopted after being placed out
39 for adoption by an Indian tribe as referenced in subdivision seven of
40 section four hundred fifty-one of this title.

41 S 5. This act shall take effect immediately and shall be deemed to
42 have been in full force and effect on and after April 1, 2012; provided,
43 however, that the amendments to paragraph (a) of subdivision 1 and para-
44 graph (a) of subdivision 2 of section 153-k of the social services law
45 made by sections two and three of this act shall not affect the repeal
46 of such section and shall be deemed repealed therewith.

47

PART G

48 Section 1. This part enacts into law major components of legislation
49 which are necessary for establishing a juvenile justice services close
50 to home initiative. Each component is wholly contained within a subpart
51 identified as subparts A through B. The effective date for each partic-
52 ular provision contained within such subpart is set forth in the last
53 section of such subpart. Any provision in any section contained within a
54 subpart, including the effective date of the subpart, which makes refer-

ence to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the subpart in which it is found. Section four of this part sets forth the general effective date of this act.

S 2. Legislative intent. In order to provide a juvenile justice system that ensures public safety and improves short and long term outcomes for youth and their families, it is the intent of this legislation to authorize the city of New York to provide juvenile justice services to all adjudicated juvenile delinquents who reside in the city, and are determined by the family court to need placement other than in a secure facility. This legislation aims to transform the juvenile justice system by authorizing the city to develop a system for its youth that strives to:

a) provide an effective continuum of diversion, supervision, treatment and confinement, ensuring that the least restrictive, most appropriate level of care is provided for all youth, consistent with public safety, keeping youth close to home, minimizing the dislocation of youth from their families and building on positive connections between young people and their communities;

b) provide accountability of the system and organizations within the system, ensuring that both internal and external mechanisms for oversight of the system are maintained;

c) be data-driven, ensuring that objective instruments are employed at all key decision making stages and that system actors readily and transparently share information to inform ongoing changes in policy and practice;

d) promote family and community involvement, ensuring that positive family and community supports are actively engaged;

e) be based on evidence-informed practices, ensuring that programs and services provided are shown to have worked in improving outcomes for youth, maintaining public safety and reducing unnecessary confinement and recidivism and unwarranted racial/ethnic disparities; and

f) provide effective reintegration services, ensuring that youth remain connected to appropriate educational services and positive behavioral supports and/or treatment modalities upon transitioning home from placement.

SUBPART A

Section 1. The social services law is amended by adding a new section 404 to read as follows:

S 404. JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE. 1. A SOCIAL SERVICES DISTRICT IN A CITY WITH A POPULATION IN EXCESS OF ONE MILLION MAY IMPLEMENT A CLOSE TO HOME INITIATIVE TO PROVIDE JUVENILE JUSTICE SERVICES TO ALL ADJUDICATED JUVENILE DELINQUENTS DETERMINED BY A FAMILY COURT IN SUCH DISTRICT AS NEEDING PLACEMENT OTHER THAN IN A SECURE FACILITY AND TO ENTER INTO CONTRACTS WITH ANY AUTHORIZED AGENCY, AS DEFINED BY SECTION THREE HUNDRED SEVENTY-ONE OF THIS CHAPTER, TO OPERATE AND MAINTAIN NON-SECURE AND LIMITED SECURE FACILITIES.

2. A SOCIAL SERVICES DISTRICT SHALL OBTAIN PRIOR APPROVAL FROM THE OFFICE OF CHILDREN AND FAMILY SERVICES AND THE STATE DIVISION OF BUDGET OF ITS PLAN FOR ESTABLISHING AND IMPLEMENTING SUCH AN INITIATIVE IN ACCORDANCE WITH GUIDELINES ESTABLISHED AND IN THE FORMAT, AND INCLUDING THE INFORMATION REQUIRED, BY SUCH OFFICE. SUCH DISTRICT MAY SUBMIT SEPARATE PLANS FOR HOW THE DISTRICT WILL IMPLEMENT INITIATIVES FOR JUVENILE

1 DELINQUENTS PLACED IN NON-SECURE SETTINGS AND IN LIMITED SECURE
2 SETTINGS. ANY SUCH PLAN SHALL SPECIFY, IN DETAIL, AS APPLICABLE:

3 (A) HOW THE DISTRICT WILL PROVIDE A CONTINUUM OF EVIDENCE INFORMED,
4 HIGH-QUALITY COMMUNITY-BASED AND RESIDENTIAL PROGRAMMING THAT WILL
5 PROTECT COMMUNITY SAFETY AND PROVIDE APPROPRIATE SERVICES TO YOUTH,
6 INCLUDING THE OPERATION OF NON-SECURE AND LIMITED SECURE FACILITIES, IN
7 SUFFICIENT CAPACITY AND IN A MANNER DESIGNED TO MEET THE NEEDS OF JUVENILE
8 DELINQUENTS CARED FOR UNDER THE INITIATIVE. SUCH PROGRAMMING SHALL
9 BE BASED ON AN ANALYSIS OF RECENT PLACEMENT TRENDS OF YOUTH FROM WITHIN
10 SUCH DISTRICT, INCLUDING THE NUMBER OF YOUTH WHO HAVE BEEN PLACED IN THE
11 CUSTODY OF THE OFFICE OF CHILDREN AND FAMILY SERVICES FOR PLACEMENT IN
12 OTHER THAN A SECURE FACILITY;

13 (B) THE ANTICIPATED START-UP AND ON-GOING SERVICES AND ADMINISTRATIVE
14 COSTS OF THE INITIATIVE;

15 (C) THE READINESS OF THE DISTRICT TO ESTABLISH THE INITIATIVE AND THE
16 AVAILABILITY OF ALL NEEDED RESOURCES, INCLUDING THE LOCATION OF SERVICES
17 AND AVAILABILITY OF THE PROVIDERS THAT WILL PROVIDE ALL NECESSARY
18 SERVICES UNDER THE INITIATIVE INCLUDING, BUT NOT LIMITED TO, RESIDENTIAL,
19 NON-RESIDENTIAL, EDUCATIONAL, MEDICAL, SUBSTANCE ABUSE, MENTAL
20 HEALTH AND AFTER CARE SERVICES AND COMMUNITY SUPERVISION;

21 (D) THE PROPOSED EFFECTIVE DATE OF THE PLAN AND DOCUMENTATION OF THE
22 DISTRICT'S READINESS TO BEGIN ACCEPTING AND APPROPRIATELY SERVING JUVENILE
23 DELINQUENTS UNDER THE PLAN;

24 (E) HOW THE DISTRICT WILL PROVIDE NECESSARY AND APPROPRIATE STAFFING
25 TO IMPLEMENT THE INITIATIVE;

26 (F) HOW THE DISTRICT WILL MONITOR THE QUALITY OF SERVICES PROVIDED TO
27 YOUTH, INCLUDING HOW THE DISTRICT WILL PROVIDE CASE MANAGEMENT SERVICES;

28 (G) HOW, THROUGHOUT THE INITIATIVE, THE DISTRICT WILL SEEK AND RECEIVE
29 ON-GOING COMMUNITY AND STAKEHOLDER INPUT RELATING TO THE IMPLEMENTATION
30 AND EFFECTIVENESS OF THE INITIATIVE;

31 (H) HOW THE DISTRICT WILL ENSURE THAT ALL STAFF WORKING DIRECTLY WITH
32 YOUTH SERVED UNDER THE INITIATIVE HAVE RECEIVED NECESSARY AND APPROPRIATE
33 TRAINING;

34 (I) HOW THE DISTRICT WILL MONITOR THE USE OF RESTRAINTS ON YOUTH,
35 INCLUDING, BUT NOT LIMITED TO, THE USE OF MECHANICAL RESTRAINTS;

36 (J) HOW THE DISTRICT WILL DEVELOP AND IMPLEMENT PROGRAMS AND POLICIES
37 TO ENSURE PROGRAM SAFETY AND THAT YOUTH RECEIVE APPROPRIATE SERVICES
38 BASED ON THEIR NEEDS, INCLUDING, BUT NOT LIMITED TO, EDUCATIONAL, BEHAVIORAL,
39 MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES IN ACCORDANCE WITH
40 INDIVIDUALIZED TREATMENT PLANS DEVELOPED FOR EACH YOUTH;

41 (K) HOW THE DISTRICT WILL DEVELOP AND IMPLEMENT GENDER SPECIFIC
42 PROGRAMMING AND POLICIES TO MEET THE SPECIALIZED NEEDS OF LESBIAN, GAY,
43 BISEXUAL OR TRANSGENDER YOUTH;

44 (L) HOW THE DISTRICT WILL DEVELOP AND IMPLEMENT PROGRAMMING THAT IS
45 CULTURALLY COMPETENT TO MEET THE DIVERSE NEEDS OF THE YOUTH;

46 (M) HOW THE DISTRICT WILL DEVELOP AND IMPLEMENT LOCAL PROGRAMS THAT
47 WILL SEEK TO REDUCE THE DISPROPORTIONATE PLACEMENT OF MINORITY YOUTH IN
48 RESIDENTIAL PROGRAMS IN THE JUVENILE JUSTICE SYSTEM;

49 (N) HOW THE DISTRICT WILL DEVELOP AND IMPLEMENT A PLAN TO REDUCE THE
50 NUMBER OF YOUTH ABSENT WITHOUT LEAVE FROM PLACEMENT;

51 (O) HOW THE DISTRICT WILL DEVELOP AND IMPLEMENT POLICIES TO SERVE
52 YOUTH IN THE LEAST RESTRICTIVE SETTING CONSISTENT WITH THE NEEDS OF
53 YOUTH AND PUBLIC SAFETY, AND TO AVOID MODIFICATIONS OF PLACEMENTS TO THE
54 OFFICE OF CHILDREN AND FAMILY SERVICES;

55 (P) HOW THE DISTRICT WILL ENGAGE IN PERMANENCY AND DISCHARGE PLANNING
56 FOR JUVENILE DELINQUENTS PLACED IN ITS CUSTODY;

1 (Q) HOW THE DISTRICT WILL DEVELOP AND IMPLEMENT A COMPREHENSIVE AFTER
2 CARE PROGRAM TO PROVIDE SERVICES AND SUPPORTS FOR YOUTH WHO HAVE RE-EN-
3 TERED THE COMMUNITY FOLLOWING A JUVENILE JUSTICE PLACEMENT WITH THE
4 DISTRICT;

5 (R) HOW THE DISTRICT WILL DEVELOP AND IMPLEMENT POLICIES FOCUSED ON
6 REDUCING RECIDIVISM OF YOUTH WHO LEAVE THE PROGRAM;

7 (S) HOW THE LOCAL PROBATION DEPARTMENT WILL IMPLEMENT A COMPREHENSIVE
8 PREDISPOSITION INVESTIGATION PROCESS THAT INCLUDES, AT LEAST, THE USE OF
9 APPROPRIATE ASSESSMENTS TO DETERMINE THE COGNITIVE,
10 EDUCATIONAL/VOCATIONAL, AND SUBSTANCE ABUSE NEEDS OF THE YOUTH AND THE
11 USE OF A VALIDATED RISK ASSESSMENT INSTRUMENT, APPROVED BY THE OFFICE OF
12 CHILDREN AND FAMILY SERVICES; AND HOW THE DISTRICT WILL IMPLEMENT AN
13 INTAKE PROCESS FOR YOUTH PLACED IN RESIDENTIAL CARE THAT INCLUDES THE
14 USE OF APPROPRIATE ASSESSMENTS TO DETERMINE THE MEDICAL, DENTAL, MENTAL
15 AND BEHAVIORAL HEALTH NEEDS OF THE YOUTH; AND

16 (T) HOW THE DISTRICT WILL PROVIDE FOR THE RESTRICTIVE SETTING AND
17 PROGRAMS NECESSARY TO SERVE YOUTH WHO NEED PLACEMENT IN A LIMITED SECURE
18 SETTING CONSISTENT WITH THE NECESSITY FOR THE PROTECTION OF THE HEALTH
19 OR SAFETY OF THE JUVENILE DELINQUENTS IN THE FACILITY OR THE SURROUNDING
20 COMMUNITY.

21 3. PRIOR TO SUBMITTING ANY PLAN PURSUANT TO SUBDIVISION TWO OF THIS
22 SECTION, THE SOCIAL SERVICES DISTRICT SHALL CONDUCT AT LEAST ONE PUBLIC
23 HEARING ON THE PROPOSED PLAN. ANY SUCH PUBLIC HEARINGS SHALL ONLY BE
24 HELD AFTER THIRTY DAYS NOTICE HAS BEEN PROVIDED IN A NEWSPAPER OF GENER-
25 AL CIRCULATION WITHIN THE JURISDICTION FOR WHICH THE SOCIAL SERVICES
26 DISTRICT IS LOCATED. THE NOTICE SHALL SPECIFY THE TIMES OF THE PUBLIC
27 HEARING AND PROVIDE INFORMATION ON HOW WRITTEN COMMENT ON THE PLAN MAY
28 BE SUBMITTED TO THE DISTRICT FOR CONSIDERATION. ADDITIONALLY, FOR A
29 PERIOD OF AT LEAST THIRTY DAYS PRIOR TO A HEARING, THE DISTRICT SHALL
30 POST ON ITS WEBSITE A NOTICE OF THE HEARING, A COPY OF THE PROPOSED
31 PLAN, AND INFORMATION ON HOW WRITTEN COMMENTS ON THE PLAN MAY BE SUBMIT-
32 TED TO THE DISTRICT FOR CONSIDERATION.

33 4. THE SOCIAL SERVICES DISTRICT SHALL SUBMIT, WITH SUCH A PLAN, AN
34 ASSESSMENT OF ANY WRITTEN COMMENTS RECEIVED, AND ANY COMMENTS PRESENTED
35 AT THE PUBLIC HEARING. AT A MINIMUM, SUCH ASSESSMENT SHALL CONTAIN:

36 (A) A SUMMARY AND ANALYSIS OF THE ISSUES RAISED AND SIGNIFICANT ALTER-
37 NATIVES SUGGESTED;

38 (B) A STATEMENT OF THE REASONS WHY ANY SIGNIFICANT ALTERNATIVES WERE
39 NOT INCORPORATED INTO THE PLAN; AND

40 (C) A DESCRIPTION OF ANY CHANGES MADE TO THE PLAN AS A RESULT OF SUCH
41 COMMENTS.

42 5. THE OFFICE OF CHILDREN AND FAMILY SERVICES AND THE STATE DIVISION
43 OF BUDGET, IN CONSULTATION WITH THE OFFICE OF MENTAL HEALTH, SHALL BE
44 AUTHORIZED TO REQUEST AMENDMENTS TO ANY PLAN PRIOR TO APPROVAL. FOR ANY
45 PLAN THAT ONLY COVERS JUVENILE DELINQUENTS PLACED IN NON-SECURE
46 SETTINGS, THE OFFICE AND THE DIVISION SHALL, WITHIN THIRTY DAYS OF
47 RECEIVING THE PLAN, EITHER APPROVE OR DISAPPROVE THE PLAN OR REQUEST
48 AMENDMENTS TO THE PLAN. IF ANY AMENDMENTS ARE REQUESTED TO THE PLAN, THE
49 OFFICE AND THE DIVISION SHALL APPROVE OR DISAPPROVE THE PLAN WITHIN
50 FIFTEEN DAYS OF ITS RESUBMISSION WITH THE REQUESTED AMENDMENTS. FOR ANY
51 PLAN THAT COVERS JUVENILE DELINQUENTS PLACED IN LIMITED SECURE SETTINGS,
52 THE OFFICE AND THE DIVISION SHALL, WITHIN SIXTY DAYS OF RECEIVING THE
53 PLAN, EITHER APPROVE OR DISAPPROVE THE PLAN OR REQUEST AMENDMENTS TO THE
54 PLAN. IF ANY AMENDMENTS ARE REQUESTED TO THE PLAN, THE OFFICE AND THE
55 DIVISION SHALL APPROVE OR DISAPPROVE THE PLAN WITHIN FIFTEEN DAYS OF ITS
56 RESUBMISSION WITH THE REQUESTED AMENDMENTS.

1 6. (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IF
2 THE OFFICE OF CHILDREN AND FAMILY SERVICES APPROVES A SOCIAL SERVICES
3 DISTRICT'S PLAN TO IMPLEMENT A JUVENILE JUSTICE SERVICES CLOSE TO HOME
4 INITIATIVE FOR JUVENILE DELINQUENTS PLACED IN NON-SECURE SETTINGS, SUCH
5 OFFICE SHALL WORK WITH SUCH DISTRICT TO IDENTIFY THOSE JUVENILE DELIN-
6 QUENTS IN THE OFFICE'S CUSTODY RESIDING IN NON-SECURE PLACEMENTS AND
7 THOSE CONDITIONALLY RELEASED FROM A FACILITY WHO WERE PLACED BY A FAMILY
8 COURT WITHIN THE JURISDICTION OF SAID SOCIAL SERVICES DISTRICT. THE
9 OFFICE SHALL EVALUATE THE PLACEMENT LENGTH AND THE NEEDS OF SUCH JUVE-
10 NILE DELINQUENTS AND, WHERE APPROPRIATE, FILE A PETITION PURSUANT TO
11 SECTION 355.1 OF THE FAMILY COURT ACT TO TRANSFER CUSTODY OF SUCH YOUTH
12 TO SAID SOCIAL SERVICES DISTRICT ON THE EFFECTIVE DATE OF THE PLAN, OR
13 AS SOON AS APPROPRIATE THEREAFTER, BUT IN NO EVENT LATER THAN NINETY
14 DAYS AFTER SUCH EFFECTIVE DATE; PROVIDED, HOWEVER, IF THE OFFICE DETER-
15 MINES, ON A CASE-BY-CASE BASIS, FOR REASONS DOCUMENTED IN WRITING
16 SUBMITTED TO THE SOCIAL SERVICES DISTRICT, THAT A TRANSFER WITHIN NINETY
17 DAYS OF THE EFFECTIVE DATE OF THE PLAN WOULD BE DETRIMENTAL TO THE
18 EMOTIONAL, MENTAL OR PHYSICAL HEALTH OF A YOUTH, OR WOULD SERIOUSLY
19 INTERFERE WITH THE YOUTH'S INTERSTATE TRANSFER OR IMMINENT DISCHARGE,
20 THE OFFICE SHALL PROVIDE AN ESTIMATED TIME BY WHICH THE OFFICE EXPECTS
21 TO BE ABLE TO PETITION FOR THE TRANSFER OF SUCH YOUTH OR TO RELEASE SUCH
22 YOUTH FROM ITS CARE, AND SHALL NOTIFY THE DISTRICT OF ANY DELAY OF THAT
23 EXPECTED DATE AND THE REASONS FOR SUCH A DELAY.

24 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IF THE
25 OFFICE APPROVES A SOCIAL SERVICES DISTRICT'S PLAN TO IMPLEMENT A JUVE-
26 NILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE FOR JUVENILE DELINQUENTS
27 PLACED IN LIMITED-SECURE SETTINGS, SUCH OFFICE SHALL WORK WITH SUCH
28 DISTRICT TO IDENTIFY JUVENILE DELINQUENTS IN THE OFFICE'S CUSTODY RESID-
29 ING IN LIMITED SECURE PLACEMENTS WHO WERE PLACED BY A FAMILY COURT IN
30 THE SOCIAL SERVICES DISTRICT. THE OFFICE OF CHILDREN AND FAMILY SERVICES
31 SHALL EVALUATE THE PLACEMENT LENGTH AND NEEDS OF SUCH JUVENILE DELIN-
32 QUENTS AND, WHERE APPROPRIATE, FILE A PETITION PURSUANT TO SECTION 355.1
33 OF THE FAMILY COURT ACT TO TRANSFER CUSTODY OF SUCH YOUTH TO SAID SOCIAL
34 SERVICES DISTRICT ON THE EFFECTIVE DATE OF THE PLAN OR AS SOON AS APPRO-
35 PRIATE THEREAFTER, BUT IN NO EVENT LATER THAN NINETY DAYS AFTER SUCH
36 EFFECTIVE DATE; PROVIDED, HOWEVER, IF THE OFFICE DETERMINES, ON A CASE-
37 BY-CASE BASIS, FOR REASONS DOCUMENTED IN WRITING SUBMITTED TO THE SOCIAL
38 SERVICES DISTRICT, THAT A TRANSFER WITHIN NINETY DAYS OF THE EFFECTIVE
39 DATE OF THE PLAN WOULD BE DETRIMENTAL TO THE EMOTIONAL, MENTAL OR PHYS-
40 ICAL HEALTH OF A YOUTH, OR WOULD SERIOUSLY INTERFERE WITH THE YOUTH'S
41 INTERSTATE TRANSFER OR IMMINENT DISCHARGE, THE OFFICE SHALL PROVIDE AN
42 ESTIMATED TIME BY WHICH THE OFFICE EXPECTS TO BE ABLE TO PETITION FOR
43 THE TRANSFER OF SUCH YOUTH OR TO RELEASE SUCH YOUTH FROM ITS CARE, AND
44 SHALL NOTIFY THE DISTRICT OF ANY DELAY OF THAT EXPECTED DATE AND THE
45 REASONS FOR SUCH A DELAY.

46 7. (A) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (C) OF SUBDIVISION
47 FIFTEEN OF SECTION FIVE HUNDRED ONE OF THE EXECUTIVE LAW, OR ANY OTHER
48 LAW TO THE CONTRARY, IF THE OFFICE OF CHILDREN AND FAMILY SERVICES
49 APPROVES A SOCIAL SERVICES DISTRICT'S PLAN FOR A JUVENILE JUSTICE
50 SERVICES CLOSE TO HOME INITIATIVE TO IMPLEMENT SERVICES FOR JUVENILE
51 DELINQUENTS PLACED IN NON-SECURE OR LIMITED SECURE SETTINGS, SUCH OFFICE
52 SHALL BE AUTHORIZED, FOR UP TO A YEAR AFTER THE EFFECTIVE DATE OF ANY
53 SUCH PLAN: (1) TO CLOSE ANY OF ITS FACILITIES IN THE CORRESPONDING
54 SETTING LEVELS COVERED BY THE APPROVED PLAN AND TO MAKE SIGNIFICANT
55 ASSOCIATED SERVICE REDUCTIONS AND PUBLIC EMPLOYEE STAFFING REDUCTIONS
56 AND TRANSFER OPERATIONS FOR THOSE SETTING LEVELS TO A PRIVATE OR

1 NOT-FOR-PROFIT ENTITY, AS DETERMINED BY THE COMMISSIONER OF THE OFFICE
2 OF CHILDREN AND FAMILY SERVICES TO BE NECESSARY TO REFLECT THE DECREASE
3 IN THE NUMBER OF JUVENILE DELINQUENTS PLACED WITH SUCH OFFICE FROM SUCH
4 SOCIAL SERVICES DISTRICT; (2) TO REDUCE COSTS TO THE STATE AND OTHER
5 SOCIAL SERVICES DISTRICTS RESULTING FROM SUCH DECREASE; AND (3) TO
6 ADJUST SERVICES TO PROVIDE REGIONALLY-BASED CARE TO JUVENILE DELINQUENTS
7 FROM OTHER PARTS OF THE STATE NEEDING SERVICES IN THOSE LEVELS OF RESI-
8 DENTIAL SERVICES. AT LEAST SIXTY DAYS PRIOR TO TAKING ANY SUCH ACTION,
9 THE COMMISSIONER OF THE OFFICE SHALL PROVIDE NOTICE OF SUCH ACTION TO
10 THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY PRESIDENT OF THE SENATE
11 AND SHALL POST SUCH NOTICE UPON ITS PUBLIC WEBSITE. SUCH NOTICE MAY BE
12 PROVIDED AT ANY TIME ON OR AFTER THE DATE THE OFFICE APPROVES A PLAN
13 AUTHORIZING A SOCIAL SERVICES DISTRICT TO IMPLEMENT PROGRAMS FOR JUVENILE
14 DELINQUENTS PLACED IN THE APPLICABLE SETTING LEVEL. SUCH COMMISSIONER
15 SHALL BE AUTHORIZED TO CONDUCT ANY AND ALL PREPARATORY ACTIONS
16 WHICH MAY BE REQUIRED TO EFFECTUATE SUCH CLOSURES OR SIGNIFICANT SERVICE
17 OR STAFFING REDUCTIONS AND TRANSFER OF OPERATIONS DURING SUCH SIXTY DAY
18 PERIOD.

19 (B) ANY TRANSFERS OF CAPACITY OR ANY RESULTING TRANSFER OF FUNCTIONS
20 SHALL BE AUTHORIZED TO BE MADE BY THE COMMISSIONER OF THE OFFICE OF
21 CHILDREN AND FAMILY SERVICES AND ANY TRANSFER OF PERSONNEL UPON SUCH
22 TRANSFER OF CAPACITY OR TRANSFER OF FUNCTIONS SHALL BE ACCOMPLISHED IN
23 ACCORDANCE WITH THE PROVISIONS OF SECTION SEVENTY OF THE CIVIL SERVICE
24 LAW.

25 8. (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,
26 ELIGIBLE EXPENDITURES DURING THE APPLICABLE TIME PERIODS MADE BY A
27 SOCIAL SERVICES DISTRICT FOR AN APPROVED JUVENILE JUSTICE SERVICES CLOSE
28 TO HOME INITIATIVE SHALL, IF APPROVED BY THE DEPARTMENT OF FAMILY
29 ASSISTANCE, BE SUBJECT TO REIMBURSEMENT WITH STATE FUNDS ONLY UP TO THE
30 EXTENT OF AN ANNUAL APPROPRIATION MADE SPECIFICALLY THEREFOR, AFTER
31 FIRST DEDUCTING THEREFROM ANY FEDERAL FUNDS PROPERLY RECEIVED OR TO BE
32 RECEIVED ON ACCOUNT THEREOF; PROVIDED, HOWEVER, THAT WHEN SUCH FUNDS
33 HAVE BEEN EXHAUSTED, A SOCIAL SERVICES DISTRICT MAY RECEIVE STATE
34 REIMBURSEMENT FROM OTHER AVAILABLE STATE APPROPRIATIONS FOR THAT STATE
35 FISCAL YEAR FOR ELIGIBLE EXPENDITURES FOR SERVICES THAT OTHERWISE WOULD
36 BE REIMBURSABLE UNDER SUCH FUNDING STREAMS. ANY CLAIMS SUBMITTED BY A
37 SOCIAL SERVICES DISTRICT FOR REIMBURSEMENT FOR A PARTICULAR STATE FISCAL
38 YEAR FOR WHICH THE SOCIAL SERVICES DISTRICT DOES NOT RECEIVE STATE
39 REIMBURSEMENT FROM THE ANNUAL APPROPRIATION FOR THE APPROVED CLOSE TO
40 HOME INITIATIVE MAY NOT BE CLAIMED AGAINST THAT DISTRICT'S APPROPRIATION
41 FOR THE INITIATIVE FOR THE NEXT OR ANY SUBSEQUENT STATE FISCAL YEAR.

42 (I) STATE FUNDING FOR REIMBURSEMENT SHALL BE, SUBJECT TO APPROPRI-
43 ATION, IN THE FOLLOWING AMOUNTS: FOR STATE FISCAL YEAR 2013-14,
44 \$35,200,000 ADJUSTED BY ANY CHANGES IN SUCH AMOUNT REQUIRED BY SUBPARA-
45 GRAPHS (II) AND (III) OF THIS PARAGRAPH; FOR STATE FISCAL YEAR 2014-15,
46 \$41,400,000 ADJUSTED TO INCLUDE THE AMOUNT OF ANY CHANGES MADE TO THE
47 STATE FISCAL YEAR 2013-14 APPROPRIATION UNDER SUBPARAGRAPHS (II) AND
48 (III) OF THIS PARAGRAPH PLUS ANY ADDITIONAL CHANGES REQUIRED BY SUCH
49 SUBPARAGRAPHS; AND, SUCH REIMBURSEMENT SHALL BE, SUBJECT TO APPROPRI-
50 ATION, FOR ALL SUBSEQUENT STATE FISCAL YEARS IN THE AMOUNT OF THE PRIOR
51 YEAR'S ACTUAL APPROPRIATION ADJUSTED BY ANY CHANGES REQUIRED BY SUBPARA-
52 GRAPHS (II) AND (III) OF THIS PARAGRAPH.

53 (II) THE REIMBURSEMENT AMOUNTS SET FORTH IN SUBPARAGRAPH (I) OF THIS
54 PARAGRAPH SHALL BE INCREASED OR DECREASED BY THE PERCENTAGE THAT THE
55 AVERAGE OF THE MOST RECENTLY APPROVED MAXIMUM STATE AID RATES FOR GROUP
56 RESIDENTIAL FOSTER CARE PROGRAMS IS HIGHER OR LOWER THAN THE AVERAGE OF

1 THE APPROVED MAXIMUM STATE AID RATES FOR GROUP RESIDENTIAL FOSTER CARE
2 PROGRAMS IN EXISTENCE IMMEDIATELY PRIOR TO THE MOST RECENTLY APPROVED
3 RATES.

4 (III) THE REIMBURSEMENT AMOUNTS SET FORTH IN SUBPARAGRAPH (I) OF THIS
5 PARAGRAPH SHALL BE INCREASED IF EITHER THE POPULATION OF ALLEGED JUVE-
6 NILE DELINQUENTS WHO RECEIVE A PROBATION INTAKE OR THE NUMBER OF YOUTH
7 WITH A DISPOSITION FROM THE FAMILY COURT WHO ARE DETERMINED TO BE HIGH
8 RISK, AS DEFINED IN CLAUSE (A) OF THIS SUBPARAGRAPH, INCREASES BY AT
9 LEAST TEN PERCENT OVER THE RESPECTIVE POPULATION IN THE ANNUAL BASELINE
10 YEAR. THE BASELINE YEAR SHALL BE THE PERIOD FROM JULY FIRST, TWO THOU-
11 SAND TEN THROUGH JUNE THIRTIETH, TWO THOUSAND ELEVEN OR THE MOST RECENT
12 TWELVE MONTH PERIOD FOR WHICH THERE IS COMPLETE DATA, WHICHEVER IS
13 LATER. IN EACH SUCCESSIVE YEAR, THE POPULATION OF THE PREVIOUS JULY
14 FIRST THROUGH JUNE THIRTIETH PERIOD SHALL BE COMPARED TO THE BASELINE
15 YEAR FOR DETERMINING ANY ADJUSTMENTS TO A STATE FISCAL YEAR APPROPRI-
16 ATION. WHEN EITHER POPULATION INCREASES BY TEN PERCENT OR MORE, THE
17 REIMBURSEMENT WILL BE ADJUSTED BY A PERCENTAGE EQUAL TO THE LARGER OF
18 THE PERCENTAGE INCREASE IN EITHER THE NUMBER OF PROBATION INTAKES FOR
19 ALLEGED JUVENILE DELINQUENTS OR THE NUMBER OF HIGH RISK YOUTH.

20 (A) FOR THE PURPOSES OF THIS SUBPARAGRAPH, HIGH RISK YOUTH SHALL MEAN
21 YOUTH WHO ARE CATEGORIZED BY THE NEW YORK CITY DEPARTMENT OF PROBATION
22 STRUCTURED DECISION MAKING GRID (OR ANY SUCCESSOR RISK ASSESSMENT TOOL
23 APPROVED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES IN CONSULTATION
24 WITH THE DIVISION OF CRIMINAL JUSTICE SERVICES) AS EITHER AT HIGH RISK
25 FOR RE-ARREST IN CASES WHERE THE MOST SERIOUS CURRENT ARREST CHARGE IS A
26 CLASS I OR II OR AT MEDIUM RISK FOR RE-ARREST IN CASES WHERE THE MOST
27 SERIOUS CURRENT ARREST CHARGE IS A CLASS I.

28 (B) THE SOCIAL SERVICES DISTRICT AND/OR THE NEW YORK CITY DEPARTMENT
29 OF PROBATION SHALL PROVIDE AN ANNUAL REPORT INCLUDING THE DATA REQUIRED
30 TO CALCULATE THE POPULATION ADJUSTMENT TO THE NEW YORK CITY OFFICE OF
31 MANAGEMENT AND BUDGET, THE DIVISION OF CRIMINAL JUSTICE SERVICES AND THE
32 STATE DIVISION OF THE BUDGET NO LATER THAN THE FIRST DAY OF SEPTEMBER
33 FOLLOWING THE CLOSE OF THE PREVIOUS JULY FIRST THROUGH JUNE THIRTIETH
34 PERIOD.

35 (B) THE DEPARTMENT OF FAMILY ASSISTANCE IS AUTHORIZED, IN ITS
36 DISCRETION, TO MAKE ADVANCES TO A SOCIAL SERVICES DISTRICT IN ANTIC-
37 IPATION OF THE STATE REIMBURSEMENT PROVIDED FOR IN THIS SECTION.

38 (C) A SOCIAL SERVICES DISTRICT SHALL CONDUCT ELIGIBILITY DETERMI-
39 NATIONS FOR FEDERAL AND STATE FUNDING AND SUBMIT CLAIMS FOR REIMBURSE-
40 MENT IN SUCH FORM AND MANNER AND AT SUCH TIMES AND FOR SUCH PERIODS AS
41 THE DEPARTMENT OF FAMILY ASSISTANCE SHALL DETERMINE.

42 (D) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW OR REGULATION OF
43 THE DEPARTMENT OF FAMILY ASSISTANCE, STATE REIMBURSEMENT SHALL NOT BE
44 MADE FOR ANY EXPENDITURE MADE FOR THE DUPLICATION OF ANY GRANT OR ALLOW-
45 ANCE FOR ANY PERIOD.

46 (E) CLAIMS SUBMITTED BY A SOCIAL SERVICES DISTRICT FOR REIMBURSEMENT
47 SHALL BE PAID AFTER DEDUCTING ANY EXPENDITURES DEFRAID BY FEES, THIRD
48 PARTY REIMBURSEMENT, AND ANY NON-TAX LEVY FUNDS INCLUDING ANY DONATED
49 FUNDS.

50 (F) THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL NOT REIMBURSE ANY
51 CLAIMS FOR EXPENDITURES FOR RESIDENTIAL SERVICES THAT ARE SUBMITTED MORE
52 THAN TWENTY-TWO MONTHS AFTER THE CALENDAR QUARTER IN WHICH THE EXPENDI-
53 TURES WERE MADE.

54 (G) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE STATE SHALL NOT BE
55 RESPONSIBLE FOR REIMBURSING A SOCIAL SERVICES DISTRICT AND A DISTRICT
56 SHALL NOT SEEK STATE REIMBURSEMENT FOR ANY PORTION OF ANY STATE DISAL-

1 LOWANCE OR SANCTION TAKEN AGAINST THE SOCIAL SERVICES DISTRICT, OR ANY
2 FEDERAL DISALLOWANCE ATTRIBUTABLE TO FINAL FEDERAL AGENCY DECISIONS OR
3 TO SETTLEMENTS MADE, WHEN SUCH DISALLOWANCE OR SANCTION RESULTS FROM THE
4 FAILURE OF THE SOCIAL SERVICES DISTRICT TO COMPLY WITH FEDERAL OR STATE
5 REQUIREMENTS, INCLUDING, BUT NOT LIMITED TO, FAILURE TO DOCUMENT ELIGI-
6 BILITY FOR THE FEDERAL OR STATE FUNDS IN THE CASE RECORD. TO THE EXTENT
7 THAT THE SOCIAL SERVICES DISTRICT HAS SUFFICIENT CLAIMS OTHER THAN THOSE
8 THAT ARE SUBJECT TO DISALLOWANCE OR SANCTION TO DRAW DOWN THE FULL ANNU-
9 AL APPROPRIATION, SUCH DISALLOWANCE OR SANCTION SHALL NOT RESULT IN A
10 REDUCTION IN PAYMENT OF STATE FUNDS TO THE DISTRICT UNLESS THE DISTRICT
11 REQUESTS THAT THE DEPARTMENT USE A PORTION OF THE APPROPRIATION TOWARD
12 MEETING THE DISTRICT'S RESPONSIBILITY TO REPAY THE FEDERAL GOVERNMENT
13 FOR THE DISALLOWANCE OR SANCTION AND ANY RELATED INTEREST PAYMENTS.

14 (H) RATES FOR RESIDENTIAL SERVICES. (I) THE OFFICE SHALL ESTABLISH THE
15 RATES, IN ACCORDANCE WITH SECTION THREE HUNDRED NINETY-EIGHT-A OF THIS
16 CHAPTER, FOR ANY NON-SECURE FACILITIES ESTABLISHED UNDER AN APPROVED
17 JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE. FOR ANY SUCH NON-SE-
18 CURE FACILITY THAT WILL BE USED PRIMARILY BY THE SOCIAL SERVICES
19 DISTRICT WITH AN APPROVED CLOSE TO HOME INITIATIVE, FINAL AUTHORITY FOR
20 ESTABLISHMENT OF SUCH RATES AND ANY ADJUSTMENTS THERETO SHALL RESIDE
21 WITH THE OFFICE, BUT SUCH RATES AND ANY ADJUSTMENTS THERETO SHALL BE
22 ESTABLISHED ONLY UPON THE REQUEST OF, AND IN CONSULTATION WITH, SUCH
23 SOCIAL SERVICES DISTRICT.

24 (II) A SOCIAL SERVICES DISTRICT WITH AN APPROVED JUVENILE JUSTICE
25 SERVICES CLOSE TO HOME INITIATIVE FOR JUVENILE DELINQUENTS PLACED IN
26 LIMITED SECURE SETTINGS SHALL HAVE THE AUTHORITY TO ESTABLISH AND
27 ADJUST, ON AN ANNUAL OR REGULAR BASIS, MAINTENANCE RATES FOR LIMITED
28 SECURE FACILITIES PROVIDING RESIDENTIAL SERVICES UNDER SUCH INITIATIVE.
29 SUCH RATES SHALL NOT BE SUBJECT TO THE PROVISIONS OF SECTION THREE
30 HUNDRED NINETY-EIGHT-A OF THIS CHAPTER BUT SHALL BE SUBJECT TO MAXIMUM
31 COST LIMITS ESTABLISHED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES.

32 9. UPON APPROVAL OF A SOCIAL SERVICES DISTRICT'S PLAN, THE OFFICE OF
33 CHILDREN AND FAMILY SERVICES SHALL NOTIFY THE SUPERVISING FAMILY COURT
34 JUDGE RESPONSIBLE FOR THE FAMILY COURTS SERVING SUCH DISTRICT OF THE
35 EFFECTIVE DATE AND PLACEMENT SETTINGS COVERED BY THE PLAN.

36 (A) BEGINNING ON THE EFFECTIVE DATE OF A DISTRICT'S APPROVED PLAN THAT
37 ONLY COVERS JUVENILE DELINQUENTS PLACED IN NON-SECURE SETTINGS, A FAMILY
38 COURT JUDGE SERVING IN A COUNTY WHERE SUCH SOCIAL SERVICES DISTRICT IS
39 LOCATED SHALL ONLY BE AUTHORIZED TO PLACE AN ADJUDICATED JUVENILE DELIN-
40 QUENT IN THE CUSTODY OF THE COMMISSIONER OF THE OFFICE OF CHILDREN AND
41 FAMILY SERVICES FOR PLACEMENT IN A SECURE OR LIMITED SECURE FACILITY
42 PURSUANT TO SECTION 353.3 OR 353.5 OF THE FAMILY COURT ACT.

43 (B) BEGINNING ON THE EFFECTIVE DATE OF A DISTRICT'S APPROVED PLAN TO
44 IMPLEMENT PROGRAMS FOR JUVENILE DELINQUENTS PLACED IN LIMITED SECURE
45 SETTINGS, A FAMILY COURT JUDGE SERVING IN A COUNTY WHERE SUCH SOCIAL
46 SERVICES DISTRICT IS LOCATED SHALL ONLY BE AUTHORIZED TO PLACE AN ADJU-
47 DICATED JUVENILE DELINQUENT IN THE CUSTODY OF THE COMMISSIONER OF THE
48 OFFICE OF CHILDREN AND FAMILY SERVICES FOR PLACEMENT IN A SECURE FACILI-
49 TY PURSUANT TO SECTION 353.3 OR 353.5 OF THE FAMILY COURT ACT.

50 10. IF THE SOCIAL SERVICES DISTRICT RECEIVES THE NECESSARY APPROVAL TO
51 IMPLEMENT A CLOSE TO HOME INITIATIVE, THE DISTRICT SHALL IMPLEMENT THE
52 INITIATIVE IN ACCORDANCE WITH ALL APPLICABLE FEDERAL AND STATE LAWS AND
53 REGULATIONS. IF THE SOCIAL SERVICES DISTRICT RECEIVES THE NECESSARY
54 APPROVAL OF A PLAN FOR JUVENILE DELINQUENTS PLACED IN LIMITED SECURE
55 SETTINGS, THE OFFICE SHALL PROMULGATE REGULATIONS GOVERNING THE OPERA-
56 TION OF SUCH LIMITED SECURE FACILITIES. IF SUCH REGULATIONS ARE NOT

1 ADOPTED PRIOR TO THE DATE THAT AN AUTHORIZED AGENCY APPLIES FOR A
2 LICENSE TO OPERATE SUCH A FACILITY, THE FACILITY SHALL BE SUBJECT TO THE
3 EXISTING REGULATIONS OF THE OFFICE THAT WOULD APPLY TO THE OPERATION OF
4 A FOSTER CARE FACILITY OF THE SAME SIZE; PROVIDED, HOWEVER, THAT THE
5 OFFICE SHALL BE AUTHORIZED TO GRANT AN EXCEPTION TO THE AUTHORIZED AGEN-
6 CY, UNTIL SUCH LIMITED SECURE REGULATIONS ARE ADOPTED, TO ANY SUCH
7 EXISTING REGULATION THAT THE OFFICE DETERMINES WOULD IMPEDE THE ABILITY
8 OF THE AUTHORIZED AGENCY TO PROVIDE THE RESTRICTIVE SETTING AND PROGRAMS
9 NECESSARY TO SERVE YOUTH WHO NEED PLACEMENT IN A LIMITED SECURE SETTING
10 IN ACCORDANCE WITH THE APPROVED PLAN. ANY LIMITED SECURE FACILITY THAT
11 IS GRANTED SUCH A WAIVER SHALL COMPLY WITH ANY ALTERNATE REQUIREMENTS
12 THE OFFICE MAY CONSIDER NECESSARY FOR THE PROTECTION OF THE HEALTH OR
13 SAFETY OF THE JUVENILE DELINQUENTS IN THE FACILITY OR THE SURROUNDING
14 COMMUNITY.

15 (A) THE INITIATIVE SHALL BE SUBJECT TO THE OFFICE OF CHILDREN AND
16 FAMILY SERVICES' ONGOING OVERSIGHT AND MONITORING INCLUDING, BUT NOT
17 LIMITED TO: CASE RECORD REVIEWS; STAFF, FAMILY, AND CLIENT INTERVIEWS;
18 ON-SITE INSPECTIONS; REVIEW OF DATA REGARDING PROVIDER PERFORMANCE,
19 YOUTH AND STAFF SAFETY, AND QUALITY OF CARE, WHICH MUST BE PROVIDED TO
20 THE OFFICE IN THE FORM AND MANNER AND AT SUCH TIMES AS REQUIRED BY THE
21 OFFICE; AND CONTINUED LICENSING AND MONITORING OF THE AUTHORIZED AGEN-
22 CIES PROVIDING SERVICES UNDER THE PLAN PURSUANT TO THIS CHAPTER.

23 (B) THE SOCIAL SERVICES DISTRICT SHALL PROVIDE EACH JUVENILE DELIN-
24 QUENT WITH AN APPROPRIATE LEVEL OF SERVICES DESIGNED TO MEET HIS OR HER
25 INDIVIDUAL NEEDS AND TO ENHANCE PUBLIC SAFETY AND SHALL PROVIDE THE
26 OFFICE OF CHILDREN AND FAMILY SERVICES WITH SPECIFIC INFORMATION AS
27 REQUIRED BY THE OFFICE, IN THE FORMAT AND AT SUCH TIMES AS REQUIRED BY
28 SUCH OFFICE, ON THE YOUTH PARTICIPATING IN THE INITIATIVE AND THE
29 PROGRAMS SERVING SUCH YOUTH. SUCH INFORMATION SHALL BE PROVIDED TO THE
30 OFFICE OF CHILDREN AND FAMILY SERVICES ON A MONTHLY BASIS FOR THE FIRST
31 TWELVE MONTHS IMMEDIATELY FOLLOWING THE IMPLEMENTATION OF THE PROGRAMS
32 FOR EACH LEVEL OF CARE AND SHALL BE PROVIDED TO SUCH OFFICE ON A QUAR-
33 TERLY BASIS THEREAFTER.

34 11. THE SOCIAL SERVICES DISTRICT SHALL SUBMIT A REPORT TO THE OFFICE
35 OF CHILDREN AND FAMILY SERVICES ANNUALLY, IN THE FORMAT REQUIRED BY SUCH
36 OFFICE, DETAILING OVERALL INITIATIVE PERFORMANCE.

37 12. IF THE OFFICE OF CHILDREN AND FAMILY SERVICES DETERMINES THAT THE
38 SOCIAL SERVICES DISTRICT IS FAILING TO ADEQUATELY PROVIDE FOR THE JUVE-
39 NILE DELINQUENTS PLACED UNDER AN APPROVED PLAN, SUCH OFFICE MAY REQUIRE
40 THE SOCIAL SERVICES DISTRICT TO SUBMIT A CORRECTIVE ACTION PLAN, FOR
41 SUCH OFFICE'S APPROVAL, DEMONSTRATING HOW IT WILL RECTIFY THE INADEQUA-
42 CIES. IF THE OFFICE DETERMINES THAT THE SOCIAL SERVICES DISTRICT IS
43 FAILING TO MAKE SUFFICIENT PROGRESS TOWARDS IMPLEMENTING THE CORRECTIVE
44 ACTION PLAN IN THE TIME AND MANNER APPROVED BY THE OFFICE, THE OFFICE
45 SHALL PROVIDE THE DISTRICT WRITTEN NOTICE OF SUCH DETERMINATION AND THE
46 BASIS THEREFOR, AND MANDATE THAT THE DISTRICT TAKE ALL NECESSARY ACTIONS
47 TO IMPLEMENT THE PLAN. IF A DISTRICT HAS FAILED WITHIN A REASONABLE TIME
48 THEREAFTER TO MAKE PROGRESS IMPLEMENTING ANY REGULATION, OR ANY OTHER
49 PORTION OF SUCH PLAN THAT IS INTENDED TO PREVENT IMMINENT DANGER TO THE
50 HEALTH, SAFETY OR WELFARE OF THE YOUTH BEING SERVED UNDER THE PLAN, THE
51 OFFICE MAY WITHHOLD OR SET ASIDE A PORTION OF THE FUNDING DUE UNDER
52 SUBDIVISION EIGHT OF THIS SECTION UNTIL THE DISTRICT DEMONSTRATES THAT
53 SUFFICIENT PROGRESS IS BEING MADE; OR TERMINATE THE DISTRICT'S AUTHORITY
54 TO OPERATE ALL OR A PORTION OF THE JUVENILE JUSTICE SERVICES CLOSE TO
55 HOME INITIATIVE, TAKE ALL NECESSARY STEPS TO ASSUME CUSTODY FOR, AND
56 PROVIDE SERVICES TO, THE APPLICABLE JUVENILE DELINQUENTS BEING SERVED

1 UNDER THE INITIATIVE, AND DISCONTINUE FUNDS PROVIDED TO THE DISTRICT FOR
2 SUCH SERVICES. THE OFFICE SHALL NOT WITHHOLD, SET ASIDE OR DISCONTINUE
3 STATE AID TO A DISTRICT UNTIL WRITTEN NOTICE IS GIVEN TO THE COMMISSION-
4 ER OF THE DISTRICT, AND IN THE EVENT FUNDING IS WITHHELD, SET ASIDE OR
5 DISCONTINUED, THE DISTRICT MAY APPEAL TO THE OFFICE, WHICH SHALL HOLD A
6 FAIR HEARING THEREON IN ACCORDANCE WITH THE PROVISIONS OF SECTION TWEN-
7 TY-TWO OF THIS CHAPTER RELATING TO FAIR HEARINGS. THE DISTRICT MAY
8 INSTITUTE A PROCEEDING FOR A REVIEW OF THE DETERMINATION OF THE OFFICE
9 FOLLOWING THE FAIR HEARING PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE
10 CIVIL PRACTICE LAW AND RULES. ANY FUNDS WITHHELD, SET ASIDE OR DISCON-
11 TINUED PURSUANT TO THIS PROVISION SHALL BE APPLIED TO ADDRESS THE PROB-
12 LEM WHICH WAS THE BASIS FOR SUCH SANCTION. IF THE OFFICE TERMINATES A
13 DISTRICT'S AUTHORITY TO OPERATE ANY PORTION OF A JUVENILE JUSTICE
14 SERVICES CLOSE TO HOME INITIATIVE IN ACCORDANCE WITH THIS SUBDIVISION,
15 THE OFFICE SHALL NOTIFY THE SUPERVISING FAMILY COURT JUDGE RESPONSIBLE
16 FOR THE FAMILY COURTS SERVING SUCH DISTRICT OF SUCH TERMINATION AND THE
17 EFFECTIVE DATE OF SUCH TERMINATION.

18 13. ONCE A PLAN BECOMES OPERATIVE PURSUANT TO THIS SECTION, THE SOCIAL
19 SERVICES DISTRICT SHALL CARRY OUT THE FOLLOWING FUNCTIONS, POWERS AND
20 DUTIES WITH RESPECT TO PLACEMENTS OF JUVENILE DELINQUENTS IN ACCORDANCE
21 WITH THE PROVISIONS OF SUCH PLAN AND ALL APPLICABLE FEDERAL AND STATE
22 LAWS AND REGULATIONS:

23 (A) TO ENTER INTO CONTRACTS WITH AUTHORIZED AGENCIES, AS DEFINED IN
24 SECTION THREE HUNDRED SEVENTY-ONE OF THIS CHAPTER, TO OPERATE AND MAIN-
25 TAIN FACILITIES AUTHORIZED UNDER SUCH PLAN; SUCH CONTRACTS MAY INCLUDE
26 SUCH PROGRAM REQUIREMENTS AS DEEMED NECESSARY BY THE DISTRICT;

27 (B) TO DETERMINE THE PARTICULAR FACILITY OR PROGRAM IN WHICH A JUVE-
28 NILE DELINQUENT PLACED WITH THE DISTRICT SHALL BE CARED FOR, BASED UPON
29 AN EVALUATION OF SUCH JUVENILE DELINQUENT;

30 (C) TO TRANSFER A JUVENILE DELINQUENT FROM ONE FACILITY TO ANY OTHER
31 FACILITY, WHEN THE INTERESTS OF SUCH JUVENILE DELINQUENT REQUIRES SUCH
32 ACTION; PROVIDED THAT, IF THE DISTRICT HAS AN APPROVED PLAN TO IMPLEMENT
33 SERVICES FOR JUVENILE DELINQUENTS PLACED IN LIMITED SECURE SETTINGS, A
34 JUVENILE DELINQUENT TRANSFERRED TO A NON-SECURE FACILITY FROM A LIMITED
35 SECURE FACILITY MAY BE RETURNED TO A LIMITED SECURE FACILITY UPON A
36 DETERMINATION BY THE DISTRICT THAT, FOR ANY REASON, CARE AND TREATMENT
37 AT THE NON-SECURE FACILITY IS NO LONGER SUITABLE;

38 (D) TO ISSUE A WARRANT FOR THE APPREHENSION AND RETURN OF ANY RUNAWAY
39 OR CONDITIONALLY RELEASED JUVENILE DELINQUENT PLACED WITH THE DISTRICT,
40 IN ACCORDANCE WITH THE REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY
41 SERVICES; PROVIDED FURTHER THAT:

42 (I) A SOCIAL SERVICES OFFICIAL, PURSUANT TO THE REGULATIONS OF THE
43 OFFICE OF CHILDREN AND FAMILY SERVICES, SHALL ISSUE A WARRANT DIRECTED
44 GENERALLY TO ANY PEACE OFFICER, ACTING PURSUANT TO SUCH OFFICER'S
45 SPECIAL DUTIES, OR POLICE OFFICER IN THE STATE FOR THE APPREHENSION AND
46 RETURN OF ANY RUNAWAY OR CONDITIONALLY RELEASED JUVENILE DELINQUENT
47 UNDER THE JURISDICTION OF THE DISTRICT AND SUCH WARRANT SHALL BE
48 EXECUTED BY ANY PEACE OFFICER, ACTING PURSUANT TO SUCH OFFICER'S SPECIAL
49 DUTIES, OR POLICE OFFICER TO WHOM IT MAY BE DELIVERED; THE SOCIAL
50 SERVICES DISTRICT ALSO SHALL PROVIDE RELEVANT LAW ENFORCEMENT AGENCIES
51 WITHIN FORTY-EIGHT HOURS WITH ANY PHOTOGRAPHS OF ANY RUNAWAY OR CONDI-
52 TIONALLY RELEASED JUVENILE DELINQUENT FOR WHOM A WARRANT IS ISSUED,
53 TOGETHER WITH ANY PERTINENT INFORMATION RELATIVE TO SUCH JUVENILE DELIN-
54 QUENT; SUCH PHOTOGRAPHS SHALL REMAIN THE PROPERTY OF THE SOCIAL SERVICES
55 DISTRICT AND SHALL BE KEPT CONFIDENTIAL FOR USE SOLELY IN THE APPREHEN-
56 SION OF SUCH JUVENILE DELINQUENT AND SHALL BE RETURNED PROMPTLY TO THE

DISTRICT UPON APPREHENSION OF SUCH JUVENILE DELINQUENT, OR UPON THE DEMAND OF THE DISTRICT;

(II) A SOCIAL SERVICES OFFICIAL SHALL GIVE IMMEDIATE WRITTEN NOTICE TO THE FAMILY COURT WHEN ANY JUVENILE DELINQUENT PLACED WITH THE SOCIAL SERVICES DISTRICT BY ORDER OF SAID FAMILY COURT, IS ABSENT FROM SUCH PLACEMENT WITHOUT CONSENT;

(III) A MAGISTRATE MAY CAUSE A RUNAWAY OR A CONDITIONALLY RELEASED JUVENILE DELINQUENT TO BE HELD IN CUSTODY UNTIL RETURNED TO THE SOCIAL SERVICES DISTRICT;

(E) (I) TO CAUSE A JUVENILE DELINQUENT UNDER THE JURISDICTION OF THE SOCIAL SERVICES DISTRICT WHO RUNS AWAY FROM A FACILITY, TO BE APPREHENDED AND RETURNED TO THE SOCIAL SERVICES DISTRICT OR AUTHORIZED AGENCY;

(II) IF A JUVENILE DELINQUENT UNDER THE JURISDICTION OF THE SOCIAL SERVICES DISTRICT VIOLATES ANY CONDITION OF RELEASE THEREFROM, OR IF THERE IS A CHANGE OF CIRCUMSTANCES, AND THE SOCIAL SERVICES DISTRICT DETERMINES THAT IT WOULD BE CONSISTENT WITH THE NEEDS AND BEST INTERESTS OF SAID JUVENILE DELINQUENT AND THE NEED TO PROTECT THE COMMUNITY, OR THAT THERE IS A SUBSTANTIAL LIKELIHOOD SAID JUVENILE DELINQUENT WILL COMMIT AN ACT THAT WOULD BE A CRIME OR CONSTITUTE A CRIME IF HE OR SHE WERE AN ADULT, TO CAUSE SAID JUVENILE DELINQUENT TO BE APPREHENDED AND RETURNED TO THE DISTRICT OR AUTHORIZED AGENCY PURSUANT TO THE REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES;

(III) TO AUTHORIZE AN EMPLOYEE DESIGNATED BY THE SOCIAL SERVICES DISTRICT, WITHOUT A WARRANT, TO APPREHEND A RUNAWAY OR CONDITIONALLY RELEASED JUVENILE DELINQUENT IN ANY COUNTY IN THIS STATE WHOSE RETURN HAS BEEN ORDERED BY THE SOCIAL SERVICES DISTRICT, AND RETURN SAID JUVENILE DELINQUENT TO ANY APPROPRIATE SOCIAL SERVICES DISTRICT, DETENTION FACILITY, AUTHORIZED AGENCY OR PROGRAM;

(F) PURSUANT TO THE REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, TO DEVELOP AND OPERATE PROGRAMS FOR YOUTH PLACED OR REFERRED TO THE DISTRICT OR IN CONJUNCTION WITH AN ORDER PROVIDED IN ACCORDANCE WITH SECTION 353.6 OF THE FAMILY COURT ACT;

(G) UPON THE PLACEMENT OF ANY JUVENILE DELINQUENT EIGHTEEN YEARS OF AGE OR OLDER, OR UPON THE EIGHTEENTH BIRTHDAY OF ANY YOUTH PLACED IN THE CUSTODY OF THE SOCIAL SERVICES DISTRICT FOR AN ADJUDICATION OF JUVENILE DELINQUENCY FOR HAVING COMMITTED AN ACT WHICH IF COMMITTED BY AN ADULT WOULD CONSTITUTE A FELONY, AND STILL IN THE CUSTODY OF THE SOCIAL SERVICES DISTRICT, TO NOTIFY THE DIVISION OF CRIMINAL JUSTICE SERVICES OF SUCH PLACEMENT OR BIRTHDAY. PROVIDED, HOWEVER, IN THE CASE OF A YOUTH ELEVEN OR TWELVE YEARS OF AGE AT THE TIME THE ACT OR ACTS WERE COMMITTED, THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL NOT BE PROVIDED WITH THE YOUTH'S NAME, UNLESS THE ACTS COMMITTED BY SUCH YOUTH WOULD CONSTITUTE A CLASS A OR B FELONY. UPON THE SUBSEQUENT DISCHARGE IT SHALL BE THE DUTY OF THE SOCIAL SERVICES DISTRICT TO NOTIFY THE DIVISION OF CRIMINAL JUSTICE SERVICES OF THAT FACT AND THE DATE OF DISCHARGE. FOR THE PURPOSES OF THIS PARAGRAPH, A YOUTH'S AGE SHALL BE DETERMINED TO BE THE AGE STATED IN THE PLACEMENT ORDER;

(H) TO PROVIDE JUVENILE DELINQUENTS IN RESIDENTIAL PLACEMENTS WITH REASONABLE AND APPROPRIATE VISITATION BY FAMILY MEMBERS AND CONSULTATION WITH THEIR LEGAL REPRESENTATIVE IN ACCORDANCE WITH THE REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES; AND

(I) TO PROVIDE RESIDENTIAL CARE IN PROGRAMS SUBJECT TO THE REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, FOR INFANTS BORN TO OR BEING NURSED BY FEMALE JUVENILE DELINQUENTS PLACED WITH THE DISTRICT;

1 RESIDENTIAL CARE FOR SUCH AN INFANT MAY BE PROVIDED FOR SUCH PERIOD OF
2 TIME AS IS DEEMED DESIRABLE FOR THE WELFARE OF THE MOTHER OR INFANT.

3 14. THE FOLLOWING PERSONS SHALL BE AUTHORIZED TO VISIT, AT THEIR PLEA-
4 SURE, ALL PROGRAMS OPERATED BY A SOCIAL SERVICES DISTRICT PURSUANT TO,
5 OR IN ACCORDANCE WITH THIS SECTION: THE GOVERNOR; LIEUTENANT GOVERNOR;
6 COMPTROLLER; ATTORNEY GENERAL; MEMBERS OF THE LEGISLATURE; JUDGES OF THE
7 COURT OF APPEALS; JUDGES FROM SUPREME COURT, FAMILY COURT AND COUNTY
8 COURTS AND DISTRICT ATTORNEYS, COUNTY ATTORNEYS AND ATTORNEYS EMPLOYED
9 IN THE OFFICE OF THE CORPORATION COUNSEL HAVING JURISDICTION WITHIN THE
10 APPLICABLE SOCIAL SERVICES DISTRICT OR COUNTY WHERE A PROGRAM IS
11 LOCATED; AND ANY PERSON OR AGENCY OTHERWISE AUTHORIZED BY STATUTE.

12 15. A JUVENILE DELINQUENT IN THE CARE OF THE SOCIAL SERVICES DISTRICT
13 WHO ATTENDS PUBLIC SCHOOL WHILE IN RESIDENCE AT A FACILITY SHALL BE
14 DEEMED A RESIDENT OF THE SCHOOL DISTRICT WHERE THE YOUTH'S PARENT OR
15 GUARDIAN RESIDES AT THE COMMENCEMENT OF EACH SCHOOL YEAR FOR THE PURPOSE
16 OF DETERMINING WHICH SCHOOL DISTRICT SHALL BE RESPONSIBLE FOR THE
17 YOUTH'S TUITION.

18 16. THE SOCIAL SERVICES DISTRICT SHALL BE PERMITTED TO INTERVENE
19 PURSUANT TO PARAGRAPH ONE OF SUBDIVISION (A) OF SECTION ONE THOUSAND
20 TWELVE OF THE CIVIL PRACTICE LAW AND RULES IN ANY ACTION INVOLVING AN
21 APPEAL FROM A DECISION OF ANY COURT OF THIS STATE THAT RELATES TO
22 PROGRAMS, CONDITIONS OR SERVICES PROVIDED BY SUCH DISTRICT OR ANY
23 AUTHORIZED AGENCY WITH WHICH THE DISTRICT HAS PLACED A JUVENILE DELIN-
24 QUENT PURSUANT TO THIS SECTION. WRITTEN NOTICE SHALL BE GIVEN TO THE
25 CORPORATION COUNSEL OF THE CITY OF NEW YORK OR COUNTY ATTORNEY BY THE
26 PARTY TAKING THE APPEAL.

27 17. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE SOCIAL
28 SERVICES DISTRICT MAY DELAY ACCEPTANCE OF A JUVENILE DELINQUENT IN
29 DETENTION WHO IS PLACED IN THE DISTRICT'S CUSTODY IN ACCORDANCE WITH THE
30 REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES.

31 18. NO ORDER THAT PLACES A JUVENILE DELINQUENT IN THE CUSTODY OF THE
32 SOCIAL SERVICES DISTRICT THAT RECITES THE FACTS UPON WHICH IT IS BASED
33 SHALL BE DEEMED OR HELD TO BE INVALID BY REASON OF ANY IMPERFECTION OR
34 DEFECT IN FORM.

35 S 2. Section 351.1 of the family court act is amended by adding a new
36 subdivision 2-a to read as follows:

37 2-A. (A) IN A SOCIAL SERVICES DISTRICT OPERATING AN APPROVED JUVENILE
38 JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR
39 HUNDRED FOUR OF THE SOCIAL SERVICES LAW, THE LOCAL PROBATION DEPARTMENT
40 SHALL DEVELOP AND SUBMIT TO THE OFFICE OF CHILDREN AND FAMILY SERVICES
41 FOR PRIOR APPROVAL A VALIDATED PRE-DISPOSITIONAL RISK ASSESSMENT INSTRU-
42 MENT AND ANY RISK ASSESSMENT PROCESS. SUCH DEPARTMENT SHALL PERIOD-
43 ICALLY REVALIDATE ANY APPROVED PRE-DISPOSITIONAL RISK ASSESSMENT INSTRU-
44 MENT. THE DEPARTMENT SHALL CONSPICUOUSLY POST ANY APPROVED
45 PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT AND PROCESS ON ITS WEBSITE
46 AND SHALL CONFER WITH APPROPRIATE STAKEHOLDERS, INCLUDING BUT NOT LIMIT-
47 ED TO, ATTORNEYS FOR CHILDREN, PRESENTMENT AGENCIES AND THE FAMILY
48 COURT, PRIOR TO REVISING ANY VALIDATED PRE-DISPOSITIONAL RISK ASSESSMENT
49 INSTRUMENT OR PROCESS. ANY REVISED PRE-DISPOSITIONAL RISK ASSESSMENT
50 INSTRUMENT SHALL BE SUBJECT TO PERIODIC EMPIRICAL VALIDATION AND TO THE
51 APPROVAL OF THE OFFICE OF CHILDREN AND FAMILY SERVICES. THE DEPARTMENT
52 SHALL PROVIDE TRAINING ON THE APPROVED INSTRUMENT AND ANY APPROVED PROC-
53 ESS TO THE APPLICABLE FAMILY COURTS, PRESENTMENT AGENCY, AND COURT
54 APPOINTED ATTORNEYS FOR RESPONDENTS.

55 (B) ONCE AN INITIAL VALIDATED RISK ASSESSMENT INSTRUMENT AND ANY RISK
56 ASSESSMENT PROCESS HAVE BEEN APPROVED BY THE OFFICE OF CHILDREN AND

1 FAMILY SERVICES IN CONSULTATION WITH THE DIVISION OF CRIMINAL JUSTICE
2 SERVICES, THE LOCAL PROBATION DEPARTMENT SHALL PROVIDE THE APPLICABLE
3 SUPERVISING FAMILY COURT JUDGE WITH A COPY OF THE VALIDATED RISK ASSESS-
4 MENT INSTRUMENT AND ANY SUCH PROCESS ALONG WITH THE LETTER FROM THE
5 OFFICE OF CHILDREN AND FAMILY SERVICES APPROVING THE INSTRUMENT AND
6 PROCESS, IF APPLICABLE, AND INDICATING THE DATE THE INSTRUMENT AND ANY
7 SUCH PROCESS SHALL BE EFFECTIVE, PROVIDED THAT SUCH EFFECTIVE DATE SHALL
8 BE AT LEAST THIRTY DAYS AFTER SUCH NOTIFICATION.

9 (C) COMMENCING ON THE EFFECTIVE DATE OF A VALIDATED PRE-DISPOSITIONAL
10 RISK ASSESSMENT INSTRUMENT AND ANY APPROVED PROCESS AND THEREAFTER, EACH
11 PROBATION INVESTIGATION ORDERED UNDER SUBDIVISION TWO OF THIS SECTION
12 SHALL INCLUDE THE RESULTS OF THE VALIDATED RISK ASSESSMENT OF THE
13 RESPONDENT AND PROCESS, IF ANY; AND A RESPONDENT SHALL NOT BE PLACED IN
14 ACCORDANCE WITH SECTION 353.3 OR 353.5 OF THIS PART UNLESS THE COURT HAS
15 RECEIVED AND GIVEN DUE CONSIDERATION TO THE RESULTS OF SUCH VALIDATED
16 RISK ASSESSMENT AND ANY APPROVED PROCESS AND MADE THE FINDINGS REQUIRED
17 PURSUANT TO PARAGRAPH (F) OF SUBDIVISION TWO OF SECTION 352.2 OF THIS
18 PART.

19 (D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, DATA
20 NECESSARY FOR COMPLETION OF A PRE-DISPOSITIONAL RISK ASSESSMENT INSTRU-
21 MENT MAY BE SHARED BETWEEN LAW ENFORCEMENT, PROBATION, COURTS, DETENTION
22 ADMINISTRATIONS, DETENTION PROVIDERS, PRESENTMENT AGENCIES, AND THE
23 ATTORNEY FOR THE CHILD UPON RETENTION OR APPOINTMENT SOLELY FOR THE
24 PURPOSE OF ACCURATE COMPLETION OF SUCH RISK ASSESSMENT INSTRUMENT. A
25 COPY OF THE COMPLETED PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT SHALL
26 BE MADE AVAILABLE TO THE APPLICABLE COURT.

27 (E) THE LOCAL PROBATION DEPARTMENT SHALL PROVIDE THE DIVISION OF CRIM-
28 INAL JUSTICE SERVICES WITH INFORMATION REGARDING THE USE OF THE PRE-DIS-
29 POSITIONAL RISK ASSESSMENT INSTRUMENT AND ANY RISK ASSESSMENT PROCESS IN
30 THE TIME AND MANNER REQUIRED BY THE DIVISION OF CRIMINAL JUSTICE
31 SERVICES. THE DIVISION MAY REQUIRE THAT SUCH DATA BE SUBMITTED TO THE
32 DIVISION ELECTRONICALLY. THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL
33 SHARE SUCH INFORMATION WITH THE OFFICE OF CHILDREN AND FAMILY SERVICES.

34 S 3. Subdivision 2 of section 352.2 of the family court act is amended
35 by adding a new paragraph (f) to read as follows:

36 (F)(1) IN A SOCIAL SERVICES DISTRICT OPERATING AN APPROVED JUVENILE
37 JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR
38 HUNDRED FOUR OF THE SOCIAL SERVICES LAW, ONCE THE SUPERVISING FAMILY
39 COURT JUDGE RECEIVES NOTICE THAT A RISK ASSESSMENT INSTRUMENT AND ANY
40 RISK ASSESSMENT PROCESS HAVE BEEN APPROVED BY THE OFFICE OF CHILDREN AND
41 FAMILY SERVICES PURSUANT TO SUBDIVISION TWO-A OF SECTION 351.1 OF THIS
42 PART, THE COURT SHALL GIVE DUE CONSIDERATION TO THE RESULTS OF THE VALI-
43 DATED RISK ASSESSMENT AND ANY SUCH PROCESS PROVIDED TO THE COURT PURSU-
44 ANT TO SUCH SUBDIVISION WHEN DETERMINING THE APPROPRIATE DISPOSITION FOR
45 THE RESPONDENT.

46 (2) ANY ORDER OF THE COURT DIRECTING THE PLACEMENT OF A RESPONDENT
47 INTO A RESIDENTIAL PROGRAM SHALL STATE:

48 (I) THE LEVEL OF RISK THE YOUTH WAS ASSESSED AT PURSUANT TO THE VALI-
49 DATED RISK ASSESSMENT INSTRUMENT; AND

50 (II) IF A DETERMINATION IS MADE TO PLACE A YOUTH IN A HIGHER LEVEL OF
51 PLACEMENT THAN APPEARS WARRANTED BASED ON SUCH RISK ASSESSMENT INSTRU-
52 MENT AND ANY APPROVED RISK ASSESSMENT PROCESS, THE PARTICULAR REASONS
53 WHY SUCH PLACEMENT WAS DETERMINED TO BE NECESSARY FOR THE PROTECTION OF
54 THE COMMUNITY AND TO BE CONSISTENT WITH THE NEEDS AND BEST INTERESTS OF
55 THE RESPONDENT; AND

(III) THAT A LESS RESTRICTIVE ALTERNATIVE THAT WOULD BE CONSISTENT WITH THE NEEDS AND BEST INTERESTS OF THE RESPONDENT AND THE NEED FOR PROTECTION OF THE COMMUNITY IS NOT AVAILABLE.

S 4. Section 353.3 of the family court act is amended by adding a new subdivision 2-a to read as follows:

2-A. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY, IN A DISTRICT OPERATING AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW:

(A) BEGINNING ON THE EFFECTIVE DATE OF THE DISTRICT'S APPROVED PLAN THAT ONLY COVERS JUVENILE DELINQUENTS PLACED IN NON-SECURE SETTINGS, THE COURT MAY ONLY PLACE THE RESPONDENT:

(I) IN THE CUSTODY OF THE COMMISSIONER OF THE LOCAL SOCIAL SERVICES DISTRICT FOR PLACEMENT IN A NON-SECURE LEVEL OF CARE; OR

(II) IN THE CUSTODY OF THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES FOR PLACEMENT IN A LIMITED SECURE OR SECURE LEVEL OF CARE; AND

(B) BEGINNING ON THE EFFECTIVE DATE OF THE DISTRICT'S APPROVED PLAN TO IMPLEMENT PROGRAMS FOR YOUTH PLACED IN LIMITED SECURE SETTINGS, THE COURT MAY ONLY PLACE THE RESPONDENT:

(I) IN THE CUSTODY OF THE COMMISSIONER OF THE LOCAL SOCIAL SERVICES DISTRICT FOR PLACEMENT IN:

(A) A NON-SECURE LEVEL OF CARE;

(B) A LIMITED SECURE LEVEL OF CARE; OR

(C) EITHER A NON-SECURE OR LIMITED SECURE LEVEL OF CARE, AS DETERMINED BY SUCH COMMISSIONER; OR

(II) IN THE CUSTODY OF THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES FOR PLACEMENT IN A SECURE LEVEL OF CARE.

S 5. Subdivision 9 of section 353.3 of the family court act, as amended by section 6 of part G of chapter 58 of the laws of 2010, is amended to read as follows:

9. If the court places a respondent with the office of children and family services, OR IN A LIMITED SECURE LEVEL OF CARE IN A SOCIAL SERVICES DISTRICT WITH AN APPROVED PLAN TO IMPLEMENT A JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE UNDER SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW, pursuant to this section after finding that such [child] RESPONDENT committed a felony, the court may, in its discretion, further order that such respondent shall be confined in a residential facility for a minimum period set by the order, not to exceed six months.

S 6. Subdivisions 4 and 5 of section 353.5 of the family court act, as added by chapter 920 of the laws of 1982, subparagraph (i) of paragraph (a) of subdivision 4 and subparagraph (i) of paragraph (a) of subdivision 5 as amended by chapter 419 of the laws of 1987, subparagraph (iv) of paragraph (a) of subdivision 4 and subparagraph (iv) of paragraph (a) of subdivision 5 as amended by chapter 687 of the laws of 1993, paragraphs (b) and (d) of subdivision 4 and paragraph (d) of subdivision 5 as amended by chapter 398 of the laws of 1983, are amended to read as follows:

4. When the order is for a restrictive placement in the case of a youth found to have committed a designated class A felony act,

(a) the order shall provide that:

(i) the respondent shall be placed with the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES for an initial period of five years. If the respondent has been in detention pending disposition, the initial period of placement ordered under this section shall be credited

1 with and diminished by the amount of time spent by the respondent in
2 detention prior to the commencement of the placement unless the court
3 finds that all or part of such credit would not serve the needs and best
4 interests of the respondent or the need for protection of the community.

5 (ii) the respondent shall initially be confined in a secure facility
6 for a period set by the order, to be not less than twelve nor more than
7 eighteen months provided, however, where the order of the court is made
8 in compliance with subdivision five OF THIS SECTION, the respondent
9 shall initially be confined in a secure facility for eighteen months.

10 (iii) after the period set under [clause] SUBPARAGRAPH (ii) OF THIS
11 PARAGRAPH, the respondent shall be placed in a residential facility for
12 a period of twelve months; PROVIDED, HOWEVER, THAT IF THE RESPONDENT HAS
13 BEEN PLACED FROM A FAMILY COURT IN A SOCIAL SERVICES DISTRICT OPERATING
14 AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT
15 TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW, ONCE THE TIME
16 FRAMES IN SUBPARAGRAPH (II) OF THIS PARAGRAPH ARE MET:

17 (A) BEGINNING ON THE EFFECTIVE DATE OF SUCH A SOCIAL SERVICES
18 DISTRICT'S PLAN THAT ONLY COVERS JUVENILE DELINQUENTS PLACED IN NON-SE-
19 CURE SETTINGS, IF THE OFFICE OF CHILDREN AND FAMILY SERVICES CONCLUDES,
20 BASED ON THE NEEDS AND BEST INTERESTS OF THE RESPONDENT AND THE NEED FOR
21 PROTECTION FOR THE COMMUNITY, THAT A NON-SECURE LEVEL OF CARE IS APPRO-
22 PRIATE FOR THE RESPONDENT, SUCH OFFICE SHALL FILE A PETITION PURSUANT TO
23 PARAGRAPH (B) OR (C) OF SUBDIVISION TWO OF SECTION 355.1 OF THIS PART TO
24 HAVE THE RESPONDENT PLACED WITH THE APPLICABLE LOCAL COMMISSIONER OF
25 SOCIAL SERVICES; AND

26 (B) BEGINNING ON THE EFFECTIVE DATE OF SUCH A SOCIAL SERVICES
27 DISTRICT'S PLAN THAT COVERS JUVENILE DELINQUENTS PLACED IN LIMITED
28 SECURE SETTINGS, IF THE OFFICE OF CHILDREN AND FAMILY SERVICES
29 CONCLUDES, BASED ON THE NEEDS AND BEST INTERESTS OF THE RESPONDENT AND
30 THE NEED FOR PROTECTION FOR THE COMMUNITY, THAT A NON-SECURE OR LIMITED
31 SECURE LEVEL OF CARE IS APPROPRIATE FOR THE RESPONDENT, SUCH OFFICE
32 SHALL FILE A PETITION PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION
33 TWO OF SECTION 355.1 OF THIS PART TO HAVE THE RESPONDENT PLACED WITH THE
34 APPLICABLE LOCAL COMMISSIONER OF SOCIAL SERVICES.

35 (C) IF THE RESPONDENT IS PLACED WITH THE LOCAL COMMISSIONER OF SOCIAL
36 SERVICES IN ACCORDANCE WITH CLAUSE (A) OR (B) OF THIS SUBPARAGRAPH, THE
37 REMAINDER OF THE PROVISIONS OF THIS SECTION SHALL CONTINUE TO APPLY TO
38 THE RESPONDENT'S PLACEMENT.

39 (iv) the respondent may not be released from a secure facility or
40 transferred to a facility other than a secure facility during the period
41 provided in [clause] SUBPARAGRAPH (ii) of this paragraph, nor may the
42 respondent be released from a residential facility during the period
43 provided in [clause] SUBPARAGRAPH (iii) OF THIS PARAGRAPH. No home
44 visits shall be permitted during the period of secure confinement set by
45 the court order or one year, whichever is less, except for emergency
46 visits for medical treatment or severe illness or death in the family.
47 All home visits must be accompanied home visits: (A) while a youth is
48 confined in a secure facility, whether such confinement is pursuant to a
49 court order or otherwise; (B) while a youth is confined in a residential
50 facility other than a secure facility within six months after confine-
51 ment in a secure facility; and (C) while a youth is confined in a resi-
52 dential facility other than a secure facility in excess of six months
53 after confinement in a secure facility unless two accompanied home
54 visits have already occurred. An "accompanied home visit" shall mean a
55 home visit during which the youth shall be accompanied at all times
56 while outside the secure or residential facility by appropriate person-

nel of the [division for youth designated pursuant to regulations of the director of the division] OFFICE OF CHILDREN AND FAMILY SERVICES OR, IF APPLICABLE, A LOCAL SOCIAL SERVICES DISTRICT WHICH OPERATES AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW.

(b) Notwithstanding any other provision of law, during the first twelve months of the respondent's placement, no motion, hearing or order may be made, held or granted pursuant to section 355.1; provided, however, that during such period a motion to vacate the order may be made pursuant to [355.1] SUCH SECTION, but only upon grounds set forth in section 440.10 of the criminal procedure law.

(c) During the placement or any extension thereof:

(i) after the expiration of the period provided in [clause] SUBPARAGRAPH (iii) of paragraph (a) OF THIS SUBDIVISION, the respondent shall not be released from a residential facility without the written approval of the [director of the division for youth or his designated deputy director] OFFICE OF CHILDREN AND FAMILY SERVICES OR, IF APPLICABLE, A SOCIAL SERVICES DISTRICT OPERATING AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW.

(ii) the respondent shall be subject to intensive supervision whenever not in a secure or residential facility.

(iii) the respondent shall not be discharged from the custody of the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES OR, IF APPLICABLE, A SOCIAL SERVICES DISTRICT OPERATING AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW, unless a motion therefor under section 355.1 is granted by the court, which motion shall not be made prior to the expiration of three years of the placement.

(iv) unless otherwise specified in the order, the [division] OFFICE OF CHILDREN AND FAMILY SERVICES OR, IF APPLICABLE, A SOCIAL SERVICES DISTRICT OPERATING AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW shall report in writing to the court not less than once every six months during the placement on the status, adjustment and progress of the respondent.

(d) Upon the expiration of the initial period of placement, or any extension thereof, the placement may be extended in accordance with section 355.3 on a petition of any party or the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES, OR, IF APPLICABLE, A SOCIAL SERVICES DISTRICT OPERATING AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW, after a dispositional hearing, for an additional period not to exceed twelve months, but no initial placement or extension of placement under this section may continue beyond the respondent's twenty-first birthday.

(e) The court may also make an order pursuant to subdivision two of section 353.4.

5. When the order is for a restrictive placement in the case of a youth found to have committed a designated felony act, other than a designated class A felony act,

(a) the order shall provide that:

(i) the respondent shall be placed with the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES for an initial period of three years. If the respondent has been in detention pending disposition, the initial period of placement ordered under this section shall be credited

1 with and diminished by the amount of time spent by the respondent in
2 detention prior to the commencement of the placement unless the court
3 finds that all or part of such credit would not serve the needs and best
4 interests of the respondent or the need for protection of the community.

5 (ii) the respondent shall initially be confined in a secure facility
6 for a period set by the order, to be not less than six nor more than
7 twelve months.

8 (iii) after the period set under [clause] SUBPARAGRAPH (ii) OF THIS
9 PARAGRAPH, the respondent shall be placed in a residential facility for
10 a period set by the order, to be not less than six nor more than twelve
11 months; PROVIDED, HOWEVER, THAT IF THE RESPONDENT HAS BEEN PLACED FROM A
12 FAMILY COURT IN A SOCIAL SERVICES DISTRICT OPERATING AN APPROVED JUVE-
13 NILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR
14 HUNDRED FOUR OF THE SOCIAL SERVICES LAW, ONCE THE TIME FRAMES IN SUBPAR-
15 AGRAPH (II) OF THIS PARAGRAPH ARE MET:

16 (A) BEGINNING ON THE EFFECTIVE DATE OF SUCH A SOCIAL SERVICES
17 DISTRICT'S PLAN THAT ONLY COVERS JUVENILE DELINQUENTS PLACED IN NON-SE-
18 CURE SETTINGS, IF THE OFFICE OF CHILDREN AND FAMILY SERVICES CONCLUDES,
19 BASED ON THE NEEDS AND BEST INTERESTS OF THE RESPONDENT AND THE NEED FOR
20 PROTECTION FOR THE COMMUNITY, THAT A NON-SECURE LEVEL OF CARE IS APPRO-
21 PRIATE FOR THE RESPONDENT, SUCH OFFICE SHALL FILE A PETITION PURSUANT TO
22 PARAGRAPH (B) OR (C) OF SUBDIVISION TWO OF SECTION 355.1 OF THIS PART TO
23 HAVE THE RESPONDENT PLACED WITH THE APPLICABLE LOCAL COMMISSIONER OF
24 SOCIAL SERVICES; AND

25 (B) BEGINNING ON THE EFFECTIVE DATE OF SUCH A SOCIAL SERVICES
26 DISTRICT'S PLAN TO IMPLEMENT PROGRAMS FOR YOUTH PLACED IN LIMITED SECURE
27 SETTINGS, IF THE OFFICE OF CHILDREN AND FAMILY SERVICES CONCLUDES, BASED
28 ON THE NEEDS AND BEST INTERESTS OF THE RESPONDENT AND THE NEED FOR
29 PROTECTION FOR THE COMMUNITY, THAT A NON-SECURE OR LIMITED SECURE LEVEL
30 OF CARE IS APPROPRIATE FOR THE RESPONDENT, SUCH OFFICE SHALL FILE A
31 PETITION PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION TWO OF SECTION
32 355.1 OF THIS PART TO HAVE THE RESPONDENT PLACED WITH THE APPLICABLE
33 LOCAL COMMISSIONER OF SOCIAL SERVICES.

34 (C) IF THE RESPONDENT IS PLACED WITH A LOCAL COMMISSIONER OF SOCIAL
35 SERVICES IN ACCORDANCE WITH CLAUSE (A) OR (B) OF THIS SUBPARAGRAPH, THE
36 REMAINDER OF THE PROVISIONS OF THIS SECTION SHALL CONTINUE TO APPLY TO
37 THE RESPONDENT'S PLACEMENT.

38 (iv) the respondent may not be released from a secure facility or
39 transferred to a facility other than a secure facility during the period
40 provided by the court pursuant to [clause] SUBPARAGRAPH (ii) OF THIS
41 PARAGRAPH, nor may the respondent be released from a residential facili-
42 ty during the period provided by the court pursuant to [clause] SUBPARA-
43 GRAPH (iii) OF THIS PARAGRAPH. No home visits shall be permitted during
44 the period of secure confinement set by the court order or one year,
45 whichever is less, except for emergency visits for medical treatment or
46 severe illness or death in the family. All home visits must be accompa-
47 nied home visits: (A) while a youth is confined in a secure facility,
48 whether such confinement is pursuant to a court order or otherwise; (B)
49 while a youth is confined in a residential facility other than a secure
50 facility within six months after confinement in a secure facility; and
51 (C) while a youth is confined in a residential facility other than a
52 secure facility in excess of six months after confinement in a secure
53 facility unless two accompanied home visits have already occurred. An
54 "accompanied home visit" shall mean a home visit during which the youth
55 shall be accompanied at all times while outside the secure or residen-
56 tial facility by appropriate personnel of the [division for youth desig-

1 nated pursuant to regulations of the director of the division] OFFICE OF
2 CHILDREN AND FAMILY SERVICES OR, IF APPLICABLE, A SOCIAL SERVICES
3 DISTRICT OPERATING AN APPROVED JUVENILE JUSTICE CLOSE TO HOME INITIATIVE
4 PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW.

5 (b) Notwithstanding any other provision of law, during the first six
6 months of the respondent's placement, no motion, hearing or order may be
7 made, held or granted pursuant to section 355.1; provided, however, that
8 during such period a motion to vacate the order may be made pursuant to
9 such section, but only upon grounds set forth in section 440.10 of the
10 criminal procedure law.

11 (c) During the placement or any extension thereof:

12 (i) after the expiration of the period provided in [clause] SUBPARA-
13 GRAPH (iii) of paragraph (a) OF THIS SUBDIVISION, the respondent shall
14 not be released from a residential facility without the written approval
15 of the [director of the division for youth or his designated deputy
16 director] OFFICE OF CHILDREN AND FAMILY SERVICES OR, IF APPLICABLE, A
17 SOCIAL SERVICES DISTRICT OPERATING AN APPROVED JUVENILE JUSTICE SERVICES
18 CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE
19 SOCIAL SERVICES LAW.

20 (ii) the respondent shall be subject to intensive supervision whenever
21 not in a secure or residential facility.

22 (iii) the respondent shall not be discharged from the custody of the
23 [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES, OR, IF
24 APPLICABLE, A SOCIAL SERVICES DISTRICT OPERATING AN APPROVED JUVENILE
25 JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR
26 HUNDRED FOUR OF THE SOCIAL SERVICES LAW.

27 (iv) unless otherwise specified in the order, the [division] OFFICE OF
28 CHILDREN AND FAMILY SERVICES OR, IF APPLICABLE, A SOCIAL SERVICES
29 DISTRICT OPERATING AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME
30 INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES
31 LAW, shall report in writing to the court not less than once every six
32 months during the placement on the status, adjustment and progress of
33 the respondent.

34 (d) Upon the expiration of the initial period of placement or any
35 extension thereof, the placement may be extended in accordance with
36 section 355.3 upon petition of any party or the [division for youth]
37 OFFICE OF CHILDREN AND FAMILY SERVICES OR, IF APPLICABLE, A SOCIAL
38 SERVICES DISTRICT OPERATING AN APPROVED JUVENILE JUSTICE SERVICES CLOSE
39 TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL
40 SERVICES LAW, after a dispositional hearing, for an additional period
41 not to exceed twelve months, but no initial placement or extension of
42 placement under this section may continue beyond the respondent's twen-
43 ty-first birthday.

44 (e) The court may also make an order pursuant to subdivision two of
45 section 353.4.

46 S 7. Subdivision 8 of section 353.5 of the family court act, as added
47 by chapter 920 of the laws of 1982, is amended to read as follows:

48 8. The [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES OR,
49 IF APPLICABLE, THE SOCIAL SERVICES DISTRICT OPERATING AN APPROVED CLOSE
50 TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL
51 SERVICES LAW, shall retain the power to continue the confinement of the
52 youth in a secure or other residential facility, AS APPLICABLE, beyond
53 the periods specified by the court, within the term of the placement.

54 S 8. Subdivision 2 of section 355.1 of the family court act, as added
55 by chapter 920 of the laws of 1982, is amended to read as follows:

1 2. An order issued under section 353.3, may, upon a showing of a
2 substantial change of circumstances, be set aside, modified, vacated or
3 terminated upon motion of the commissioner of social services or the
4 [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES with whom
5 the respondent has been placed.

6 (A)(I) FOR A SOCIAL SERVICES DISTRICT THAT ONLY HAS AN APPROVED PLAN
7 TO IMPLEMENT PROGRAMS FOR JUVENILE DELINQUENTS PLACED IN NON-SECURE
8 SETTINGS AS PART OF AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME
9 INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES
10 LAW, BEGINNING ON THE EFFECTIVE DATE OF THAT PLAN, IF THE DISTRICT
11 DETERMINES THAT A HIGHER LEVEL OF PLACEMENT IS APPROPRIATE AND CONSIST-
12 ENT WITH THE NEED FOR PROTECTION OF THE COMMUNITY AND THE NEEDS AND BEST
13 INTERESTS OF THE RESPONDENT PLACED INTO ITS CARE, THE SOCIAL SERVICES
14 DISTRICT SHALL FILE A PETITION TO TRANSFER THE CUSTODY OF THE RESPONDENT
15 TO THE OFFICE OF CHILDREN AND FAMILY SERVICES, AND SHALL PROVIDE A COPY
16 OF SUCH PETITION TO SUCH OFFICE. THE COURT SHALL RENDER A DECISION
17 WHETHER THE JUVENILE DELINQUENT SHOULD BE TRANSFERRED TO THE OFFICE
18 WITHIN SEVENTY-TWO HOURS, EXCLUDING WEEKENDS AND PUBLIC HOLIDAYS. THE
19 FAMILY COURT SHALL, AFTER ALLOWING THE OFFICE OF CHILDREN AND FAMILY
20 SERVICES AN OPPORTUNITY TO BE HEARD, GRANT SUCH A PETITION ONLY IF THE
21 COURT DETERMINES, AND STATES IN ITS WRITTEN ORDER, THE REASONS WHY A
22 LIMITED SECURE OR SECURE LEVEL OF PLACEMENT IS NECESSARY AND CONSISTENT
23 WITH THE NEEDS AND BEST INTERESTS OF THE RESPONDENT AND THE NEED FOR
24 PROTECTION OF THE COMMUNITY.

25 (II) FOR A SOCIAL SERVICES DISTRICT WITH AN APPROVED PLAN OR APPROVED
26 PLANS THAT COVER JUVENILE DELINQUENTS PLACED IN NON-SECURE AND IN LIMIT-
27 ED SECURE SETTINGS AS PART OF AN APPROVED JUVENILE JUSTICE SERVICES
28 CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE
29 SOCIAL SERVICES LAW, BEGINNING ON THE EFFECTIVE DATE OF THE PLAN THAT
30 COVERS JUVENILE DELINQUENTS PLACED IN LIMITED SECURE SETTINGS, IF THE
31 DISTRICT DETERMINES THAT A SECURE LEVEL OF PLACEMENT IS APPROPRIATE AND
32 CONSISTENT WITH THE NEED FOR PROTECTION OF THE COMMUNITY AND THE NEEDS
33 AND BEST INTERESTS OF THE RESPONDENT PLACED INTO ITS CARE, THE SOCIAL
34 SERVICES DISTRICT SHALL FILE A PETITION TO TRANSFER THE CUSTODY OF THE
35 RESPONDENT TO THE OFFICE OF CHILDREN AND FAMILY SERVICES, AND SHALL
36 PROVIDE A COPY OF SUCH PETITION TO SUCH OFFICE. THE COURT SHALL RENDER A
37 DECISION WHETHER THE YOUTH SHOULD BE TRANSFERRED WITHIN SEVENTY-TWO
38 HOURS, EXCLUDING WEEKENDS AND PUBLIC HOLIDAYS. THE FAMILY COURT SHALL,
39 AFTER ALLOWING THE OFFICE OF CHILDREN AND FAMILY SERVICES AN OPPORTUNITY
40 TO BE HEARD, GRANT SUCH A PETITION ONLY IF THE COURT DETERMINES, AND
41 STATES IN ITS WRITTEN ORDER, THAT THE YOUTH NEEDS A SECURE LEVEL OF
42 PLACEMENT BECAUSE:

43 (A) THE RESPONDENT HAS BEEN SHOWN TO BE EXCEPTIONALLY DANGEROUS TO
44 HIMSELF OR HERSELF OR TO OTHER PERSONS. EXCEPTIONALLY DANGEROUS BEHAVIOR
45 MAY INCLUDE, BUT IS NOT LIMITED TO, ONE OR MORE SERIOUS INTENTIONAL
46 ASSAULTS, SEXUAL ASSAULTS OR SETTING FIRES; OR,

47 (B) THE RESPONDENT HAS DEMONSTRATED BY A PATTERN OF BEHAVIOR THAT HE
48 OR SHE NEEDS A MORE STRUCTURED SETTING AND THE SOCIAL SERVICES DISTRICT
49 HAS CONSIDERED THE APPROPRIATENESS AND AVAILABILITY OF A TRANSFER TO AN
50 ALTERNATIVE NON-SECURE OR LIMITED SECURE FACILITY. SUCH BEHAVIOR MAY
51 INCLUDE, BUT IS NOT LIMITED TO: DISRUPTIONS IN FACILITY PROGRAMS;
52 CONTINUOUSLY AND MALICIOUSLY DESTROYING PROPERTY; OR, REPEATEDLY COMMIT-
53 TING OR INCITING OTHER YOUTH TO COMMIT ASSAULTIVE OR DESTRUCTIVE ACTS.

54 (III) THE COURT MAY ORDER THAT THE RESPONDENT BE HOUSED IN A LOCAL
55 SECURE DETENTION FACILITY ON AN INTERIM BASIS PENDING ITS FINAL RULING
56 ON THE PETITION FILED PURSUANT TO THIS PARAGRAPH.

1 (B) THE FOLLOWING PROVISIONS SHALL APPLY IF THE OFFICE OF CHILDREN AND
2 FAMILY SERVICES FILES A PETITION WITH A FAMILY COURT IN A SOCIAL
3 SERVICES DISTRICT WITH AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO
4 HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL
5 SERVICES LAW TO TRANSFER, WITHIN THE FIRST NINETY DAYS THAT SUCH PLAN IS
6 EFFECTIVE, TO SUCH DISTRICT A RESPONDENT PLACED IN THE OFFICE'S CARE
7 PURSUANT TO EITHER SECTION 353.3 OR 353. 5 OF THIS PART:

8 (I) IF THE DISTRICT ONLY HAS AN APPROVED PLAN THAT COVERS JUVENILE
9 DELINQUENTS PLACED IN NON-SECURE SETTINGS, THE FAMILY COURT SHALL GRANT
10 SUCH A PETITION, WITHOUT A HEARING, UNLESS THE ATTORNEY FOR THE RESPOND-
11 ENT OBJECTS TO THE TRANSFER ON THE BASIS THAT THE RESPONDENT NEEDS TO BE
12 PLACED IN A LIMITED SECURE OR SECURE SETTING OR THE FAMILY COURT DETER-
13 MINES THAT THERE IS INSUFFICIENT INFORMATION IN THE PETITION TO GRANT
14 THE TRANSFER WITHOUT A HEARING. THE FAMILY COURT SHALL GRANT THE PETI-
15 TION UNLESS THE COURT DETERMINES, AND STATES IN ITS WRITTEN ORDER, THE
16 REASONS WHY A SECURE OR LIMITED SECURE PLACEMENT IS NECESSARY AND
17 CONSISTENT WITH THE NEEDS AND BEST INTERESTS OF THE RESPONDENT AND THE
18 NEED FOR PROTECTION OF THE COMMUNITY.

19 (II) IF THE DISTRICT HAS AN APPROVED PLAN OR APPROVED PLANS THAT COVER
20 JUVENILE DELINQUENTS PLACED IN NON-SECURE AND IN LIMITED SECURE
21 SETTINGS, FOR THE FIRST NINETY DAYS THAT THE PLAN THAT COVERS JUVENILE
22 DELINQUENTS IN LIMITED SECURE SETTINGS IS EFFECTIVE, THE FAMILY COURT
23 SHALL GRANT SUCH A PETITION, WITHOUT A HEARING, UNLESS THE ATTORNEY FOR
24 THE RESPONDENT OBJECTS TO THE TRANSFER ON THE BASIS THAT THE RESPONDENT
25 NEEDS TO BE PLACED IN A SECURE SETTING OR THE FAMILY COURT DETERMINES
26 THAT THERE IS INSUFFICIENT INFORMATION IN THE PETITION TO GRANT THE
27 TRANSFER WITHOUT A HEARING. THE FAMILY COURT SHALL GRANT THE PETITION
28 UNLESS THE COURT DETERMINES, AND STATES IN ITS WRITTEN ORDER, THE
29 REASONS WHY A SECURE PLACEMENT IS NECESSARY AND CONSISTENT WITH THE
30 NEEDS AND BEST INTERESTS OF THE RESPONDENT AND THE NEED FOR PROTECTION
31 OF THE COMMUNITY.

32 (C) BEGINNING NINETY-ONE DAYS AFTER THE EFFECTIVE DATE A SOCIAL
33 SERVICES DISTRICT'S PLAN TO IMPLEMENT PROGRAMS FOR JUVENILE JUSTICE
34 SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR
35 OF THE SOCIAL SERVICES LAW, IF THE OFFICE OF CHILDREN AND FAMILY
36 SERVICES FILES A PETITION TO TRANSFER TO SUCH DISTRICT A RESPONDENT
37 PLACED IN THE OFFICE'S CARE PURSUANT TO EITHER SECTION 353.3 OR 353.5 OF
38 THIS PART FROM A FAMILY COURT IN SUCH A SOCIAL SERVICES DISTRICT, THE
39 OFFICE SHALL PROVIDE A COPY OF THE PETITION TO THE SOCIAL SERVICES
40 DISTRICT AND THE PRESENTMENT AGENCY.

41 (I) IF THE DISTRICT ONLY HAS AN APPROVED PLAN THAT COVERS JUVENILE
42 DELINQUENTS PLACED IN NON-SECURE SETTINGS, THE FAMILY COURT SHALL, AFTER
43 ALLOWING THE SOCIAL SERVICES DISTRICT AND THE PRESENTMENT AGENCY AN
44 OPPORTUNITY TO BE HEARD, GRANT A PETITION FILED PURSUANT TO THIS SUBPAR-
45 AGRAPH UNLESS THE COURT DETERMINES, AND STATES IN ITS WRITTEN ORDER, THE
46 REASONS WHY A SECURE OR LIMITED SECURE PLACEMENT IS NECESSARY AND
47 CONSISTENT WITH THE NEEDS AND BEST INTERESTS OF THE RESPONDENT AND THE
48 NEED FOR PROTECTION OF THE COMMUNITY.

49 (II) IF THE DISTRICT HAS AN APPROVED PLAN OR APPROVED PLANS THAT COVER
50 JUVENILE DELINQUENTS PLACED IN NON-SECURE AND LIMITED SECURE SETTINGS,
51 BEGINNING NINETY-ONE DAYS AFTER THE EFFECTIVE DATE OF THE PLAN THAT
52 COVERS JUVENILE DELINQUENTS PLACED IN LIMITED SECURE SETTINGS, THE FAMI-
53 LY COURT, AFTER ALLOWING THE SOCIAL SERVICES DISTRICT AND THE PRESENT-
54 MENT AGENCY AN OPPORTUNITY TO BE HEARD, SHALL GRANT A PETITION FILED
55 PURSUANT TO THIS SUBPARAGRAPH, UNLESS THE COURT DETERMINES, AND STATES
56 IN ITS WRITTEN ORDER, THE REASONS WHY A SECURE PLACEMENT IS NECESSARY

1 AND CONSISTENT WITH THE NEEDS AND BEST INTERESTS OF THE RESPONDENT AND
2 THE NEED FOR PROTECTION OF THE COMMUNITY.

3 S 9. Subdivision 1 of section 355.5 of the family court act, as added
4 by chapter 7 of the laws of 1999, is amended to read as follows:

5 1. For the purposes of this section the term "non-secure facility"
6 means a facility operated by an authorized agency in accordance with an
7 operating certificate issued pursuant to the social services law or a
8 facility[, not including a secure or limited secure facility,] with a
9 capacity of twenty-five beds or less operated by the office of children
10 and family services in accordance with section five hundred four of the
11 executive law. THE TERM SHALL NOT INCLUDE A LIMITED SECURE OR A SECURE
12 FACILITY OPERATED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES OR A
13 LIMITED SECURE FACILITY WITHIN A SOCIAL SERVICES DISTRICT OPERATING AN
14 APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO
15 SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW.

16 S 10. Notwithstanding any other provision of law to the contrary, the
17 state shall be authorized to lease to the city of New York, for a dollar
18 a year, any real property utilized for the care, maintenance and super-
19 vision of adjudicated juvenile delinquents for use by a social services
20 district pursuant to an approved plan for a juvenile justice services
21 close to home initiative for the purpose of carrying out any powers,
22 functions or duties described in section four hundred four of the social
23 services law, or any other provision of this act. The city of New York
24 shall be responsible for the all costs associated with operating and
25 maintaining such real property other than any debt services costs for
26 such property that were in existence when the lease was executed. Appli-
27 cable state officials shall be authorized to make announced and unan-
28 nounced inspections of the property to determine whether it is being
29 maintained in an appropriate manner. The city of New York shall be
30 responsible for making any repairs to such leased property necessary to
31 maintain the property in at least as good as condition as it was when
32 the property was first leased to the city, allowing for normal wear and
33 tear, and shall return the property to the state, when the lease ends or
34 is terminated, in the same or better condition than the property was in
35 at the time the lease was first executed, aside from normal wear and
36 tear. The city of New York shall obtain prior approval from the state
37 for any major renovations to any such leased property. The leasing to
38 the social services district or the subleasing, design, construction,
39 reconstruction, improvement, rehabilitation, maintaining, furnishing,
40 repairing, equipping or use of any such facility by the social services
41 district for the care, maintenance and supervision of adjudicated juve-
42 nile delinquents shall not be subject to the provisions of any general,
43 special or local law, city charter, administrative code, ordinance or
44 resolution governing uniform land use review procedures, any other land
45 use planning review and approvals, historic preservation procedures,
46 architectural reviews, franchise approvals and other state or local
47 review and approval procedures governing the use of land and the
48 improvements thereon within the city.

49 S 11. This act shall take effect April 1, 2012 and shall expire on
50 March 31, 2018 when upon such date the provisions of this act shall be
51 deemed repealed; provided, however, that effective immediately, the
52 addition, amendment and/or repeal of any rule or regulation necessary
53 for the implementation of this act on its effective date are authorized
54 and directed to be made and completed on or before such effective date;
55 provided, however, upon the repeal of this act, a social services
56 district that has custody of a juvenile delinquent pursuant to an

1 approved juvenile justice services close to home initiative shall retain
2 custody of such juvenile delinquent until custody may be legally trans-
3 ferred in an orderly fashion to the office of children and family
4 services.

5 SUBPART B

6 Section 1. Section 398 of the social services law is amended by adding
7 a new subdivision 3-a to read as follows:

8 3-A. AS TO DELINQUENT CHILDREN:

9 (A)(1) CONDITIONALLY RELEASE ANY JUVENILE DELINQUENT PLACED WITH THE
10 DISTRICT TO AFTERCARE WHENEVER THE DISTRICT DETERMINES CONDITIONAL
11 RELEASE TO BE CONSISTENT WITH THE NEEDS AND BEST INTERESTS OF SUCH JUVE-
12 NILE DELINQUENT, THAT SUITABLE CARE AND SUPERVISION CAN BE PROVIDED, AND
13 THAT THERE IS A REASONABLE PROBABILITY THAT SUCH JUVENILE DELINQUENT CAN
14 BE CONDITIONALLY RELEASED WITHOUT ENDANGERING PUBLIC SAFETY; PROVIDED,
15 HOWEVER, THAT SUCH CONDITIONAL RELEASE SHALL BE MADE IN ACCORDANCE WITH
16 THE REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, AND
17 PROVIDED FURTHER THAT NO JUVENILE DELINQUENT WHILE ABSENT FROM A FACILI-
18 TY OR PROGRAM WITHOUT THE CONSENT OF THE DIRECTOR OF SUCH FACILITY OR
19 PROGRAM SHALL BE CONDITIONALLY RELEASED BY THE DISTRICT SOLELY BY REASON
20 OF THE ABSENCE.

21 (2) IT SHALL BE A CONDITION OF SUCH RELEASE THAT A JUVENILE DELINQUENT
22 SO RELEASED SHALL CONTINUE TO BE THE RESPONSIBILITY OF THE SOCIAL
23 SERVICES DISTRICT FOR THE PERIOD PROVIDED IN THE ORDER OF PLACEMENT.

24 (3) THE SOCIAL SERVICES DISTRICT MAY PROVIDE CLOTHING, SERVICES AND
25 OTHER NECESSITIES FOR ANY CONDITIONALLY RELEASED JUVENILE DELINQUENT, AS
26 MAY BE REQUIRED, INCLUDING MEDICAL CARE AND SERVICES NOT PROVIDED TO
27 SUCH JUVENILE DELINQUENT AS MEDICAL ASSISTANCE FOR NEEDY PERSONS PURSU-
28 ANT TO TITLE ELEVEN OF ARTICLE FIVE OF THIS CHAPTER.

29 (4) THE SOCIAL SERVICES DISTRICT, PURSUANT TO THE REGULATIONS OF THE
30 OFFICE OF CHILDREN AND FAMILY SERVICES, MAY CAUSE A JUVENILE DELINQUENT
31 TO BE RETURNED TO A FACILITY OPERATED AND MAINTAINED BY THE DISTRICT, OR
32 AN AUTHORIZED AGENCY UNDER CONTRACT WITH THE DISTRICT, AT ANY TIME WITH-
33 IN THE PERIOD OF PLACEMENT, WHERE THERE IS A VIOLATION OF THE CONDITIONS
34 OF RELEASE OR A CHANGE OF CIRCUMSTANCES.

35 (5) JUVENILE DELINQUENTS CONDITIONALLY RELEASED BY A SOCIAL SERVICES
36 DISTRICT MAY BE PROVIDED FOR AS FOLLOWS:

37 (I) IF, IN THE OPINION OF THE SOCIAL SERVICES DISTRICT, THERE IS NO
38 SUITABLE PARENT, RELATIVE OR GUARDIAN TO WHOM A JUVENILE DELINQUENT CAN
39 BE CONDITIONALLY RELEASED, AND SUITABLE CARE CANNOT OTHERWISE BE
40 SECURED, THE DISTRICT MAY CONDITIONALLY RELEASE SUCH JUVENILE DELINQUENT
41 TO THE CARE OF ANY OTHER SUITABLE PERSON.

42 (II) IF A CONDITIONALLY RELEASED JUVENILE DELINQUENT IS SUBJECT TO
43 ARTICLE SIXTY-FIVE OF THE EDUCATION LAW OR ELECTS TO PARTICIPATE IN AN
44 EDUCATIONAL PROGRAM LEADING TO A HIGH SCHOOL DIPLOMA, HE OR SHE SHALL BE
45 ENROLLED IN A SCHOOL OR EDUCATIONAL PROGRAM LEADING TO A HIGH SCHOOL
46 DIPLOMA FOLLOWING RELEASE, OR, IF SUCH RELEASE OCCURS DURING THE SUMMER
47 RECESS, UPON THE COMMENCEMENT OF THE NEXT SCHOOL TERM. IF A CONDI-
48 TIONALLY RELEASED JUVENILE DELINQUENT IS NOT SUBJECT TO ARTICLE
49 SIXTY-FIVE OF THE EDUCATION LAW, AND DOES NOT ELECT TO PARTICIPATE IN AN
50 EDUCATIONAL PROGRAM LEADING TO A HIGH SCHOOL DIPLOMA, STEPS SHALL BE
51 TAKEN, TO THE EXTENT POSSIBLE, TO FACILITATE HIS OR HER GAINFUL EMPLOY-
52 MENT OR ENROLLMENT IN A VOCATIONAL PROGRAM FOLLOWING RELEASE.

53 (B) WHEN A JUVENILE DELINQUENT PLACED WITH THE SOCIAL SERVICES
54 DISTRICT IS ABSENT FROM PLACEMENT WITHOUT CONSENT, SUCH ABSENCE SHALL

1 INTERRUPT THE CALCULATION OF TIME FOR HIS OR HER PLACEMENT. SUCH INTER-
2 RUPTION SHALL CONTINUE UNTIL SUCH JUVENILE DELINQUENT RETURNS TO THE
3 FACILITY OR AUTHORIZED AGENCY IN WHICH HE OR SHE WAS PLACED. PROVIDED,
4 HOWEVER, THAT ANY TIME SPENT BY A JUVENILE DELINQUENT IN CUSTODY FROM
5 THE DATE OF ABSENCE TO THE DATE PLACEMENT RESUMES SHALL BE CREDITED
6 AGAINST THE TIME OF SUCH PLACEMENT PROVIDED THAT SUCH CUSTODY:

7 (1) WAS DUE TO AN ARREST OR SURRENDER BASED UPON THE ABSENCE; OR

8 (2) AROSE FROM AN ARREST OR SURRENDER ON ANOTHER CHARGE WHICH DID NOT
9 CULMINATE IN A CONVICTION, ADJUDICATION OR ADJUSTMENT.

10 (C) IN ADDITION TO THE OTHER REQUIREMENTS OF THIS SECTION, NO JUVENILE
11 DELINQUENT PLACED WITH A SOCIAL SERVICES DISTRICT OPERATING AN APPROVED
12 JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION
13 FOUR HUNDRED FOUR OF THIS CHAPTER PURSUANT TO A RESTRICTIVE PLACEMENT
14 UNDER THE FAMILY COURT ACT SHALL BE RELEASED EXCEPT PURSUANT TO SECTION
15 353.5 OF THE FAMILY COURT ACT.

16 S 2. Section 351.1 of the family court act is amended by adding a new
17 subdivision 2-b to read as follows:

18 2-B. THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL DEVELOP A VALI-
19 DATED PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT AND ANY RISK ASSESS-
20 MENT PROCESS FOR JUVENILE DELINQUENTS. THE DIVISION SHALL PERIODICALLY
21 REVALIDATE ANY APPROVED PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT.
22 THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL CONSPICUOUSLY POST ANY
23 APPROVED PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT AND ANY RISK
24 ASSESSMENT PROCESS ON ITS WEBSITE AND SHALL CONFER WITH APPROPRIATE
25 STAKEHOLDERS, INCLUDING BUT NOT LIMITED TO, ATTORNEYS FOR CHILDREN,
26 PRESENTMENT AGENCIES, PROBATION AND THE FAMILY COURT, PRIOR TO REVISING
27 ANY VALIDATED PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT OR PROCESS.
28 ANY SUCH REVISED PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT SHALL BE
29 SUBJECT TO PERIODIC EMPIRICAL VALIDATION. THE DIVISION OF CRIMINAL
30 JUSTICE SERVICES SHALL PROVIDE TRAINING ON THE INSTRUMENT AND ANY PROC-
31 ESS TO THE FAMILY COURTS, LOCAL PROBATION DEPARTMENTS, PRESENTMENT AGEN-
32 CIES AND COURT APPOINTED ATTORNEYS FOR RESPONDENTS. THE DIVISION MAY
33 DETERMINE THAT A PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT AND ANY
34 PROCESS IN USE PURSUANT TO SUBDIVISION TWO-A OF SECTION 351.1 OF THIS
35 PART MAY CONTINUE TO BE USED PURSUANT TO SUCH SUBDIVISION INSTEAD OF
36 REQUIRING THE USE OF ANY INSTRUMENT OR PROCESS DEVELOPED PURSUANT TO
37 THIS SUBDIVISION.

38 (A) ONCE AN INITIAL VALIDATED RISK ASSESSMENT INSTRUMENT AND RISK
39 ASSESSMENT PROCESS HAVE BEEN DEVELOPED, THE DIVISION OF CRIMINAL JUSTICE
40 SERVICES SHALL PROVIDE THE SUPERVISING FAMILY COURT JUDGES AND LOCAL
41 PROBATION DEPARTMENTS WITH COPIES OF THE VALIDATED RISK ASSESSMENT
42 INSTRUMENT AND PROCESS AND NOTIFY THEM OF THE EFFECTIVE DATE OF THE
43 INSTRUMENT AND PROCESS, WHICH SHALL BE AT LEAST SIX MONTHS AFTER SUCH
44 NOTIFICATION.

45 (B) COMMENCING ON THE EFFECTIVE DATE OF A VALIDATED RISK ASSESSMENT
46 INSTRUMENT AND ANY RISK ASSESSMENT PROCESS AND THEREAFTER, EACH
47 PROBATION INVESTIGATION ORDERED UNDER SUBDIVISION TWO OF THIS SECTION
48 SHALL INCLUDE THE RESULTS OF THE VALIDATED RISK ASSESSMENT OF THE
49 RESPONDENT AND PROCESS, IF ANY; AND A RESPONDENT SHALL NOT BE PLACED IN
50 ACCORDANCE WITH SECTION 353.3 OR 353.5 OF THIS PART UNLESS THE COURT HAS
51 RECEIVED AND GIVEN DUE CONSIDERATION TO THE RESULTS OF SUCH VALIDATED
52 RISK ASSESSMENT AND ANY PROCESS AND MADE THE FINDINGS REQUIRED PURSUANT
53 TO PARAGRAPH (G) OF SUBDIVISION TWO OF SECTION 352.2 OF THIS PART.

54 (C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, DATA
55 NECESSARY FOR COMPLETION OF A PRE-DISPOSITIONAL RISK ASSESSMENT INSTRU-
56 MENT MAY BE SHARED BETWEEN LAW ENFORCEMENT, PROBATION, COURTS, DETENTION

ADMINISTRATIONS, DETENTION PROVIDERS, PRESENTMENT AGENCIES AND THE ATTORNEY FOR THE CHILD UPON RETENTION OR APPOINTMENT SOLELY FOR THE PURPOSE OF ACCURATE COMPLETION OF SUCH RISK ASSESSMENT INSTRUMENT, AND A COPY OF THE COMPLETED PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT SHALL BE MADE AVAILABLE TO THE APPLICABLE COURT.

(D) LOCAL PROBATION DEPARTMENTS SHALL PROVIDE THE DIVISION OF CRIMINAL JUSTICE SERVICES WITH INFORMATION REGARDING USE OF THE PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT AND ANY RISK ASSESSMENT PROCESS IN THE TIME AND MANNER REQUIRED BY THE DIVISION. THE DIVISION MAY REQUIRE THAT SUCH DATA BE SUBMITTED TO THE DIVISION ELECTRONICALLY. THE DIVISION SHALL SHARE SUCH INFORMATION WITH THE OFFICE OF CHILDREN AND FAMILY SERVICES.

S 3. Subdivision 2 of section 352.2 of the family court act is amended by adding a new paragraph (g) to read as follows:

(G)(I) ONCE A VALIDATED RISK ASSESSMENT INSTRUMENT AND ANY RISK ASSESSMENT PROCESS IS A REQUIRED PART OF EACH PROBATION INVESTIGATION ORDERED UNDER SUBDIVISION TWO OF SECTION 351.1 OF THIS PART AND PROVIDED TO THE COURT IN ACCORDANCE WITH SUBDIVISION TWO-B OF SUCH SECTION, THE COURT SHALL GIVE DUE CONSIDERATION TO THE RESULTS OF SUCH VALIDATED RISK ASSESSMENT AND ANY SUCH PROCESS WHEN DETERMINING THE APPROPRIATE DISPOSITION FOR THE RESPONDENT.

(II) ANY ORDER OF THE COURT DIRECTING THE PLACEMENT OF A RESPONDENT INTO A RESIDENTIAL PROGRAM SHALL STATE:

(A) THE LEVEL OF RISK THE YOUTH WAS ASSESSED PURSUANT TO THE VALIDATED RISK ASSESSMENT INSTRUMENT; AND

(B) IF A DETERMINATION IS MADE TO PLACE A YOUTH IN A HIGHER LEVEL OF PLACEMENT THAN APPEARS WARRANTED BASED ON SUCH RISK ASSESSMENT INSTRUMENT AND ANY RISK ASSESSMENT PROCESS, THE PARTICULAR REASONS WHY SUCH PLACEMENT WAS DETERMINED TO BE NECESSARY FOR THE PROTECTION OF THE COMMUNITY AND TO BE CONSISTENT WITH THE NEEDS AND BEST INTERESTS OF THE RESPONDENT; AND

(C) THAT A LESS RESTRICTIVE ALTERNATIVE THAT WOULD BE CONSISTENT WITH THE NEEDS AND BEST INTERESTS OF THE RESPONDENT AND THE NEED FOR PROTECTION OF THE COMMUNITY IS NOT AVAILABLE.

S 4. The opening paragraph of subdivision 2 of section 353.3 of the family court act, as amended by section 6 of part G of chapter 58 of the laws of 2010, is amended to read as follows:

Where the respondent is placed with the commissioner of the local social services district[, the court may direct the commissioner to place him or her with an authorized agency or class of authorized agencies, including, if] AND the court finds that the respondent is a sexually exploited child as defined in subdivision one of section four hundred forty-seven-a of the social services law[,] AND PLACES SUCH RESPONDENT IN an available long-term safe house. Unless the dispositional order provides otherwise, the court so directing shall include one of the following alternatives to apply in the event that the commissioner is unable to so place the respondent:

S 5. The opening paragraph of subdivision 3 of section 353.3 of the family court act, as amended by section 6 of part G of chapter 58 of the laws of 2010, is amended to read as follows:

Where the respondent is placed with the office of children and family services, the court shall, unless [it directs the office to place him or her with an authorized agency or class of authorized agencies, including if] the court finds that the respondent is a sexually exploited child as defined in subdivision one of section four hundred forty-seven-a of the social services law[,] AND PLACES SUCH RESPONDENT IN an available long-

1 term safe house pursuant to subdivision four of this section, authorize
2 the office to do one of the following:

3 S 6. Subdivision 4 of section 353.3 of the family court act, as
4 amended by section 6 of part G of chapter 58 of the laws of 2010, is
5 amended to read as follows:

6 4. Where the respondent is placed with the office of children and
7 family services, AND IF THE COURT FINDS THAT THE RESPONDENT IS A SEXUAL-
8 LY EXPLOITED CHILD AS DEFINED IN SUBDIVISION ONE OF SECTION FOUR HUNDRED
9 FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW, the court may direct the
10 office to place the respondent [with an authorized agency or class of
11 authorized agencies, including, if the court finds that the respondent
12 is a sexually exploited child as defined in subdivision one of section
13 four hundred forty-seven-a of the social services law,] IN an available
14 long-term safe house, and in the event the office is unable to so place
15 the respondent [or, discontinues the placement with the authorized agen-
16 cy], the respondent shall be deemed to have been placed with the office
17 pursuant to paragraph (b) or (c) of subdivision three of this section.
18 [In such cases, the office shall notify the court, presentment agency,
19 respondent's attorney and parent or other person responsible for the
20 respondent's care, of the reason for discontinuing the placement with
21 the authorized agency and the level and location of the youth's place-
22 ment.]

23 S 7. Subdivisions 1 and 2 of section 355.4 of the family court act, as
24 added by chapter 479 of the laws of 1992, are amended to read as
25 follows:

26 1. At the conclusion of the dispositional hearing pursuant to this
27 article, where the respondent is to be placed with the [division for
28 youth] OFFICE OF CHILDREN AND FAMILY SERVICES OR A SOCIAL SERVICES
29 DISTRICT, the court shall inquire as to whether the parents or legal
30 guardian of the youth, if present, will consent for the [division]
31 OFFICE OR THE DISTRICT to provide routine medical, dental and mental
32 health services and treatment.

33 2. Notwithstanding subdivision one of this section, where the court
34 places a youth with the [division] OFFICE OF CHILDREN AND FAMILY
35 SERVICES OR A SOCIAL SERVICES DISTRICT pursuant to this article and no
36 medical consent has been obtained prior to an order of disposition, the
37 placement order shall be deemed to grant consent for the [division for
38 youth] OFFICE OR THE DISTRICT to provide for routine medical, dental and
39 mental health services and treatment to such youth so placed.

40 S 8. This act shall take effect April 1, 2012; provided, however, that
41 effective immediately, the addition, amendment and/or repeal of any rule
42 or regulation necessary for the implementation of this act on its effec-
43 tive date are authorized and directed to be made and completed on or
44 before such effective date.

45 S 3. Severability clause. If any clause, sentence, paragraph, subdivi-
46 sion, section or part of this act shall be adjudged by any court of
47 competent jurisdiction to be invalid, such judgment shall not affect,
48 impair, or invalidate the remainder thereof, but shall be confined in
49 its operation to the clause, sentence, paragraph, subdivision, section
50 or part thereof directly involved in the controversy in which such judg-
51 ment shall have been rendered. It is hereby declared to be the intent of
52 the legislature that this act would have been enacted even if such
53 invalid provisions had not been included herein.

54 S 4. This act shall take effect immediately; provided, however, that
55 the applicable effective date of subparts A and B of this act shall be
56 as specifically set forth in the last section of such subparts.

1

PART H

2 Section 1. Paragraph (a) of subdivision 1 of section 1 of part U of
3 chapter 57 of the laws of 2005 amending the labor law and other laws
4 implementing the state fiscal plan for the 2005-2006 state fiscal year,
5 relating to the New York state higher education capital matching grant
6 program for independent colleges, as amended by section 1 of part I of
7 chapter 60 of the laws of 2011, is amended to read as follows:

8 (a) The New York state higher education capital matching grant board
9 is hereby created to have and exercise the powers, duties and preroga-
10 tives provided by the provisions of this section and any other provision
11 of law. The board shall remain in existence during the period of the New
12 York state higher education capital matching grant program from the
13 effective date of this section through March 31, [2012] 2013, or the
14 date on which the last of the funds available for grants under this
15 section shall have been disbursed, whichever is earlier; provided,
16 however, that the termination of the existence of the board shall not
17 affect the power and authority of the dormitory authority to perform its
18 obligations with respect to any bonds, notes, or other indebtedness
19 issued or incurred pursuant to authority granted in this section.

20 S 2. Paragraph (h) of subdivision 4 of section 1 of part U of chapter
21 57 of the laws of 2005 amending the labor law and other laws implement-
22 ing the state fiscal plan for the 2005-2006 state fiscal year, relating
23 to the New York state higher education matching grant program for inde-
24 pendent colleges, as amended by section 2 of part M of chapter 59 of the
25 laws of 2010, is amended to read as follows:

26 (h) If a college did not apply for a potential grant by March 31,
27 2009, funds associated with such potential grant shall be awarded, on a
28 competitive basis, to other colleges, according to the priorities set
29 forth below. Colleges shall be eligible to apply for unutilized grants.
30 In such cases, the following priorities shall apply: first, priority
31 shall be given to otherwise eligible colleges that either were, or would
32 have been, deemed ineligible for the program prior to March 31, 2009,
33 due to missed deadlines, insufficient matching funds, lack of accredi-
34 tation or other disqualifying reasons; and second, after the board has
35 acted upon all such first-priority applications for unused funds, if any
36 such funds remain, those funds shall be available for distribution to
37 eligible colleges that are located within the same Regents of the State
38 of New York region for which such funds were originally allocated. The
39 dormitory authority shall develop a request for proposals and applica-
40 tion process, in consultation with the board, for such grants and shall
41 develop criteria, subject to review by the board, for the awarding of
42 such grants. Such criteria shall incorporate the matching criteria
43 contained in paragraph (c) of this subdivision, and the application
44 criteria set forth in paragraph (e) of this subdivision. The dormitory
45 authority shall require all applications in response to the request for
46 proposals to be submitted by September 1, [2010] 2012, and the board
47 shall act on each application for such matching grants by November 1,
48 [2010] 2012.

49 S 3. Subclause (A) of clause (ii) of paragraph (j) of subdivision 4 of
50 section 1 of part U of chapter 57 of the laws of 2005 amending the labor
51 law and other laws implementing the state fiscal plan for the 2005-2006
52 state fiscal year, relating to the New York state higher education
53 matching grant program for independent colleges, as amended by section 2
54 of part I of chapter 60 of the laws of 2011, is amended to read as
55 follows:

(A) Notwithstanding the provision of any general or special law to the contrary, and subject to the provisions of chapter 59 of the laws of 2000 and to the making of annual appropriations therefor by the legislature, in order to assist the dormitory authority in providing such higher education capital matching grants, the director of the budget is authorized in any state fiscal year commencing April 1, 2005 or any state fiscal year thereafter for a period ending on March 31, [2012] 2014, to enter into one or more service contracts, none of which shall exceed 30 years in duration, with the dormitory authority, upon such terms as the director of the budget and the dormitory authority agree.

S 4. Paragraph (b) of subdivision 7 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to the New York state higher education matching grant program for independent colleges, as amended by section 3 of part I of chapter 60 of the laws of 2011, is amended to read as follows:

(b) Any eligible institution receiving a grant pursuant to this article shall report to the dormitory authority no later than June 1, [2012] 2013, on the use of funding received and its programmatic and economic impact. The dormitory authority shall submit a report no later than November 1, [2012] 2013 to the board, the governor, the director of the budget, the temporary president of the senate, and the speaker of the assembly on the aggregate impact of the higher education capital matching grant program. Such report shall provide information on the progress and economic impact of such project.

S 5. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2012.

PART I

Section 1. Section 5704 of the education law is amended to read as follows:

S 5704. Trustees shall make reports; university subject to visitation of regents; SERVICES FOR STATE AGENCIES. 1. The trustees of said university shall make all the reports and perform such other acts as may be necessary to conform to the act of congress, entitled "An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July second, eighteen hundred sixty-two. The said university shall be subject to visitation of the regents of the university.

2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, AND SUBJECT TO THE REVIEW OF THE STATE COMPTROLLER, THE STATE MAY ENTER INTO AN AGREEMENT WITH THE UNIVERSITY PRESCRIBING THE GENERAL TERMS AND CONDITIONS FOR PROVIDING SERVICES OR TECHNICAL ASSISTANCE PURSUANT TO ARTICLE ELEVEN OF THE STATE FINANCE LAW OR PROGRAM ACTIVITIES PURSUANT TO ARTICLE ELEVEN-B OF THE STATE FINANCE LAW. SUBJECT TO SUCH TERMS AND CONDITIONS, STATE AGENCIES MAY ENTER INTO AGREEMENTS WITH SAID UNIVERSITY FOR THE PROVISION OF SUCH SERVICES, ASSISTANCE OR ACTIVITIES RELATED TO THE UNIVERSITY'S LAND GRANT MISSION, WHICH AGREEMENTS SHALL NOT BE SUBJECT TO THE REQUIREMENTS OF THE STATE FINANCE LAW.

S 2. This act shall take effect immediately.

PART J

Section 1. Subdivision 4 of section 4410 of the education law, as added by chapter 243 of the laws of 1989, paragraph a as amended by

chapter 705 of the laws of 1992, paragraph c as amended by chapter 474 of the laws of 1996 and paragraphs d and e as amended by chapter 520 of the laws of 1993, is amended to read as follows:

4. Evaluations. a. The board shall identify each preschool child suspected of having a [handicapping condition] DISABILITY who resides within the district and, upon referral to the committee shall, with the consent of the parent, provide for an evaluation related to the suspected disability of the child. The board shall make such identification in accordance with regulations of the commissioner.

b. Each board shall, within time limits established by the commissioner, be responsible for providing the parent of a preschool child suspected of having a [handicapping condition] DISABILITY with a list of approved evaluators in the geographic area. The parent may select the evaluator from such list. PROVIDED HOWEVER THAT, FOR THE TWO THOUSAND TWELVE -- TWO THOUSAND THIRTEEN SCHOOL YEAR AND THEREAFTER, A LESS-THAN-ARM'S-LENGTH RELATIONSHIP SHALL NOT EXIST BETWEEN THE EVALUATOR SELECTED BY THE PARENT FROM SUCH LIST AND THE PROVIDER RECOMMENDED BY THE BOARD TO DELIVER SERVICES TO THE PRESCHOOL CHILD WITH A DISABILITY, UNLESS APPROVAL OF THE COMMISSIONER IS OBTAINED OR FOR THE TWO THOUSAND TWELVE -- TWO THOUSAND THIRTEEN SCHOOL YEAR THE PRESCHOOL CHILD WAS ENROLLED IN SUCH PROGRAM IN THE PRIOR YEAR. PROVIDED FURTHER THAT, UNLESS AUTHORIZED BY THE COMMISSIONER UPON A FINDING THAT THE BOARD HAS DEMONSTRATED THAT THE PROGRAM OFFERED BY THE PROVIDER IS THE ONLY APPROPRIATE PROGRAM AVAILABLE TO PROVIDE THE PROGRAMS AND SERVICES RECOMMENDED IN THE CHILD'S INDIVIDUALIZED EDUCATION PROGRAM, THE EVALUATOR SELECTED BY THE PARENT FROM SUCH LIST AND THE PROVIDER RECOMMENDED BY THE BOARD TO DELIVER SERVICES TO SUCH PRESCHOOL CHILD WITH A DISABILITY SHALL NOT BE THE SAME ENTITY. Each board shall provide for dissemination of the list and other information to parents at appropriate sites including but not limited to pre-kindergarten, day care, head start programs and early childhood direction centers, pursuant to regulations of the commissioner.

c. The documentation of the evaluation shall include all assessment reports and a summary report of the findings of the evaluation on a form prescribed by the commissioner including a detailed statement of the preschool child's individual needs. The summary report shall not make reference to any specific provider of special services or programs. In addition, with the consent of the parents, approved evaluators THAT CONDUCT AN EVALUATION PURSUANT TO THIS SUBDIVISION and committees shall be provided with the most recent evaluation report for a child in transition from programs and services provided pursuant to title [two-a] TWO-A of article twenty-five of the public health law. Nothing shall prohibit an approved evaluator THAT CONDUCTS AN EVALUATION PURSUANT TO THIS SUBDIVISION or the committee from reviewing other assessments or evaluations to determine if such assessments or evaluations fulfill the requirements of the regulations of the commissioner. Notwithstanding any inconsistent provisions of this section, the committee, in its discretion, may obtain an evaluation of the child from another approved evaluator prior to making any recommendation that would place a child in the approved program that conducted the initial evaluation of the child.

d. The approved evaluator shall, following completion of the evaluation, transmit the documentation of the evaluation to all members of the committee and to a person designated by the municipality in which the preschool child resides. Each municipality shall notify the [approved evaluators in the geographic area] COMMITTEE of the person so designated. The summary report of the evaluation shall be transmitted in

1 English and when necessary, also in the dominant language or other mode
2 of communication of the parent; the documentation of the evaluation
3 shall be transmitted in English and, upon the request of the parent,
4 also in the dominant language or other mode of communication of the
5 parent, unless not clearly feasible to do so pursuant to regulations
6 promulgated by the commissioner. Costs of translating the summary report
7 and documentation of the evaluation shall be separately reimbursed. If,
8 based on the evaluation, the committee finds that a child has a [handi-
9 capping condition] DISABILITY, the committee shall use the documentation
10 of the evaluation to develop an individualized education program for the
11 preschool child. Nothing herein shall prohibit an approved evaluator
12 from at any time providing the parent with a copy of the documentation
13 of the evaluation provided to the committee.

14 e. Prior to the committee meeting at which eligibility will be deter-
15 mined, the committee shall provide the parent with a copy of the summary
16 report of the findings of the evaluation, and shall provide the parent
17 with written notice of the opportunity to address the committee in
18 person or in writing. Upon timely request of the parent, the committee
19 shall, prior to meeting, provide a copy of all written documentation to
20 be considered by the committee; provided, however, that such material
21 shall be provided to the parent at any time upon request.

22 f. If the parent disagrees with the evaluation, the parent may obtain
23 an additional evaluation at public expense to the extent authorized by
24 federal law or regulation.

25 S 2. Subparagraph (i) of paragraph b of subdivision 5 of section 4410
26 of the education law, as amended by chapter 474 of the laws of 1996, is
27 amended to read as follows:

28 (i) If the committee determines that the child has a disability, the
29 committee shall recommend approved appropriate services or special
30 programs and the frequency, duration and intensity of such services,
31 including but not limited to the appropriateness of single services or
32 half-day programs based on the individual needs of the preschool child.
33 The committee shall first consider the appropriateness of providing: (i)
34 related services only; (ii) special education itinerant services only;
35 (iii) related services in combination with special education itinerant
36 services; (iv) a half-day program, as defined in the regulations of the
37 commissioner; (v) a full day program; in meeting the child's needs. If
38 the committee determines that the child demonstrates the need for a
39 single related service, such service shall be provided as a related
40 service only or, where appropriate, as a special education itinerant
41 service. Prior to recommending the provision of special education
42 services in a setting which includes only preschool children with disa-
43 bilities, the committee shall first consider providing special education
44 services in a setting which includes age-appropriate peers without disa-
45 bilities. Provision of special education services in a setting with no
46 regular contact with such age-appropriate peers shall be considered only
47 when the nature or severity of the child's disability is such that
48 education in a less restrictive environment with the use of supplementa-
49 ry aids and services cannot be achieved satisfactorily. IN ADDITION,
50 PRIOR TO RECOMMENDING PLACEMENT OF A PRESCHOOL CHILD IN AN APPROVED
51 PROGRAM, THE COMMITTEE SHALL DETERMINE WHETHER SUCH PLACEMENT IS AS
52 CLOSE AS POSSIBLE TO THE CHILD'S HOME AND, IN MAKING SUCH DETERMINATION,
53 SHALL CONSIDER WHETHER ANOTHER APPROPRIATE APPROVED PROGRAM LOCATED
54 CLOSER TO THE CHILD'S HOME IS AVAILABLE. The committee's recommendation
55 shall include a statement of the reasons why less restrictive placements
56 were not recommended, INCLUDING, WHERE THE COMMITTEE RECOMMENDS PLACE-

MENT IN AN APPROVED PROGRAM THAT IS MORE DISTANT FROM THE CHILD'S HOME THAN ANOTHER APPROVED PROGRAM OFFERING COMPARABLE SERVICES APPROPRIATE TO THE NEEDS OF THE PRESCHOOL CHILD, AN EXPLANATION OF WHY THE MORE DISTANT PROGRAM WAS RECOMMENDED. The committee may recommend placement in a program that uses psychotropic drugs only if the program has a written policy pertaining to such use and the parent is given a copy of such written policy at the time such recommendation is made.

S 3. Paragraph b of subdivision 11 of section 4410 of the education law, as amended by chapter 170 of the laws of 1994, subparagraph (ii) as amended by section 54 of part C of chapter 57 of the laws of 2004, subparagraph (iii) as amended by chapter 205 of the laws of 2009, clause (b) of subparagraph (iii) as amended by section 63 of part A of chapter 58 of the laws of 2011, subparagraphs (iv) and (v) as added by chapter 474 of the laws of 1996 and subparagraph (vi) as added by section 1 of part Q1 of chapter 109 of the laws of 2006, is amended to read as follows:

b. (i) Commencing with the reimbursement of municipalities for services provided pursuant to this section on or after July first, nineteen hundred ninety-three, AND EXCEPT AS OTHERWISE PROVIDED IN THIS SUBPARAGRAPH, the state shall reimburse fifty-nine and [one half] ONE-HALF percent of the approved costs paid by a municipality for the purposes of this section. Commencing with the reimbursement of municipalities [for services provided pursuant to this section on or after July first, nineteen hundred ninety-four, the state shall reimburse sixty-nine and one-half percent of the approved costs paid by a municipality for the purposes of this section. The state shall reimburse fifty percent of the approved costs paid by a municipality for the purposes of this section for services provided prior to July first, nineteen hundred ninety-three] OTHER THAN THE CITY OF NEW YORK FOR SERVICES PROVIDED PURSUANT TO THIS SECTION ON OR AFTER JULY FIRST, TWO THOUSAND TWELVE, THE STATE SHALL ALSO REIMBURSE SIXTY-SIX AND SIX-TENTHS PERCENT OF THE EXCESS LOCAL SHARE AMOUNT. Such state reimbursement to the municipality shall BE NET OF ANY DEDUCTIONS PURSUANT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH AND SHALL not be paid prior to April first of the school year in which such approved costs are paid by the municipality.

(ii) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE COMMISSIONER, SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE BUDGET, SHALL COMPUTE AND ESTABLISH A LOCAL SHARE BASE AMOUNT FOR CLAIMS BY MUNICIPALITIES OTHER THAN THE CITY OF NEW YORK OF THE APPROVED COSTS SUBJECT TO STATE REIMBURSEMENT FOR SERVICES PROVIDED PURSUANT TO THIS SECTION IN EACH SCHOOL YEAR STARTING WITH THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR. FOR PURPOSES OF THIS PARAGRAPH, THE "LOCAL SHARE BASE AMOUNT" MEANS THE PRODUCT OF (A) FORTY AND ONE-HALF PERCENT AND (B) THE APPROVED COSTS INCURRED PURSUANT TO THIS SECTION AND SECTION FORTY-FOUR HUNDRED TEN-A OF THIS ARTICLE IN THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR ATTRIBUTABLE TO EACH SUCH MUNICIPALITY, AND THE "LOCAL SHARE AMOUNT" MEANS THE PRODUCT OF (A) FORTY AND ONE-HALF PERCENT AND (B) THE APPROVED COSTS INCURRED PURSUANT TO THIS SECTION AND SECTION FORTY-FOUR HUNDRED TEN-A OF THIS ARTICLE IN THE CURRENT SCHOOL YEAR ATTRIBUTABLE TO EACH MUNICIPALITY, AND THE "EXCESS LOCAL SHARE AMOUNT" MEANS THE POSITIVE DIFFERENCE BETWEEN THE LOCAL SHARE AMOUNT LESS THE LOCAL SHARE BASE AMOUNT. THE COMMISSIONER SHALL ALSO COMPUTE THE "SCHOOL DISTRICT SHARE" FOR EACH SCHOOL DISTRICT OF RESIDENCE OF PRESCHOOL CHILDREN WHO RESIDE WITHIN THE MUNICIPALITY, AND FOR EACH PRESCHOOL CHILD WHO IS HOMELESS OR A FOSTER CARE CHILD LIVES AND FOR WHOM THE MUNICIPALITY IS THE MUNICIPALITY OF RESIDENCE AS

1 DEFINED IN SECTION FORTY-FOUR HUNDRED TEN-A OF THIS ARTICLE. THE "SCHOOL
2 DISTRICT SHARE" MEANS THE PRODUCT OF: (A) THIRTY-THREE AND THREE-TENTHS
3 PERCENT AND (B) THE EXCESS LOCAL SHARE AMOUNT ATTRIBUTABLE TO THE SCHOOL
4 DISTRICT. THE SCHOOL DISTRICT SHARE SHALL BE A CHARGE UPON THE SCHOOL
5 DISTRICT. THE COMMISSIONER SHALL DEDUCT AN AMOUNT EQUAL TO SUCH UNPAID
6 OBLIGATION FROM ANY PAYMENTS WHICH BECOME DUE TO SUCH SCHOOL DISTRICT
7 PURSUANT TO SUBDIVISION THREE OF SECTION FORTY-FOUR HUNDRED EIGHT OF
8 THIS CHAPTER. WHERE SUCH SCHOOL DISTRICT IS NOT ELIGIBLE FOR PAYMENTS
9 PURSUANT TO SUCH SECTION FORTY-FOUR HUNDRED EIGHT OR THE AMOUNT OF SUCH
10 UNPAID OBLIGATIONS EXCEEDS THE AMOUNT DUE TO SUCH SCHOOL DISTRICT PURSU-
11 ANT TO SUCH SECTION FORTY-FOUR HUNDRED EIGHT IN THE CURRENT SCHOOL YEAR,
12 THE COMMISSIONER SHALL DEDUCT AN AMOUNT EQUAL TO SUCH UNPAID OBLIGATION
13 FROM ANY GENERAL AID FOR PUBLIC SCHOOLS PAYMENTS WHICH BECOME DUE TO
14 SUCH SCHOOL DISTRICT PURSUANT TO SECTION THIRTY-SIX HUNDRED NINE-A OF
15 THIS CHAPTER, EXCLUDING PAYMENTS PURSUANT TO CLAUSE (III) OF SUBPARA-
16 GRAPH THREE OF PARAGRAPH B OF SUBDIVISION ONE OF SUCH SECTION THIRTY-SIX
17 HUNDRED NINE-A. WHERE SUCH SCHOOL DISTRICT IS NOT ELIGIBLE FOR PAYMENTS
18 PURSUANT TO SUCH SECTION THIRTY-SIX HUNDRED NINE-A, OR THE AMOUNT OF
19 SUCH UNPAID OBLIGATIONS EXCEEDS THE AMOUNT DUE TO SUCH SCHOOL DISTRICT
20 PURSUANT TO SUCH SECTION THIRTY-SIX HUNDRED NINE-A IN THE CURRENT SCHOOL
21 YEAR, THE COMMISSIONER SHALL BILL AND RECOVER FROM SUCH SCHOOL DISTRICT
22 ANY EXCESS UNPAID OBLIGATION AND THE AMOUNT RECOVERED FROM SUCH SCHOOL
23 DISTRICT SHALL BE CREDITED TO THE APPROPRIATION FOR PURPOSES OF THIS
24 SECTION IN THE LOCAL ASSISTANCE ACCOUNT OF THE DEPARTMENT. PROVIDED
25 HOWEVER, THAT NO SUCH DEDUCTION OR RECOVERY SHALL BE MADE PRIOR TO JULY
26 FIRST, TWO THOUSAND THIRTEEN AND THE AMOUNT SO DEDUCTED FROM PAYMENTS
27 PURSUANT TO SECTIONS FORTY-FOUR HUNDRED EIGHT OR THIRTY-SIX HUNDRED
28 NINE-A SHALL BE TRANSFERRED TO THE APPROPRIATION MADE FOR PURPOSES OF
29 THIS SECTION FROM THE SUMMER SCHOOL SPECIAL EDUCATION APPROPRIATION OR
30 THE GENERAL SUPPORT FROM PUBLIC SCHOOLS APPROPRIATION.

31 (III) In accordance with a schedule adopted by the commissioner, each
32 municipality which has been notified by a board of its obligation to
33 contract for the provision of approved special services or programs for
34 a preschool child shall be provided with a listing of all such children
35 by the commissioner. Such list shall include approved services and costs
36 as prescribed by the commissioner for each such child for whom the muni-
37 cipality shall certify, on such list, the amount expended for such
38 purposes and the date of expenditure. Upon the receipt of such certified
39 statement, the commissioner shall examine the same, and if such expendi-
40 tures were made as required by this section, the commissioner shall
41 approve it and transmit it to the comptroller for audit. The comptroller
42 shall thereupon issue his warrant, in the amount specified in such
43 approved statement for the payment thereof out of moneys appropriated
44 therefor, to the municipal treasurer or chief fiscal officer as the case
45 may be.

46 [(iii)] (IV) (a) Notwithstanding the provisions of this paragraph, any
47 monies due municipalities pursuant to this paragraph for services
48 provided during the two thousand eight--two thousand nine and prior
49 school years shall be reduced by an amount equal to the product of the
50 percentage of the approved costs reimbursed by the state pursuant to
51 subparagraph (i) of this paragraph and any federal participation, pursu-
52 ant to title XIX of the social security act, in special education
53 programs provided pursuant to this section. The commissioner shall
54 deduct such amount, as certified by the commissioner of health as the
55 authorized fiscal agent of the state education department. Such
56 deductions shall be made in accordance with a plan developed by the

1 commissioner and approved by the director of the budget. To the extent
2 that such deductions exceed moneys owed to the municipality pursuant to
3 this paragraph, such excess shall be deducted from any other payments
4 due the municipality.

5 (b) Any moneys due municipalities pursuant to this paragraph for
6 services provided during the two thousand nine--two thousand ten school
7 year and thereafter, or for services provided in a prior school year
8 that were not reimbursed by the state on or before April first, two
9 thousand eleven, shall, in the first instance, be designated as the
10 state share of moneys due a municipality pursuant to title XIX of the
11 social security act, on account of school supportive health services
12 provided to preschool students with disabilities pursuant to this
13 section. Such state share shall be assigned on behalf of municipalities
14 to the department of health, as provided herein; the amount designated
15 as such nonfederal share shall be transferred by the commissioner to the
16 department of health based on the monthly report of the commissioner of
17 health to the commissioner; and any remaining moneys to be apportioned
18 to a municipality pursuant to this section shall be paid in accordance
19 with this section. The amount to be assigned to the department of
20 health, as determined by the commissioner of health, for any munici-
21 pality shall not exceed the federal share of any moneys due such munici-
22 pality pursuant to title XIX of the social security act. Moneys desig-
23 nated as state share moneys shall be paid to such municipality by the
24 department of health based on the submission and approval of claims
25 related to such school supportive health services, in the manner
26 provided by law.

27 [(iv)] (V) Notwithstanding any other provision of law to the contrary,
28 no payments shall be made by the commissioner pursuant to this section
29 on or after July first, nineteen hundred ninety-six based on a claim for
30 services provided during school years nineteen hundred eighty-nine--ni-
31 nety, nineteen hundred ninety--ninety-one, nineteen hundred ninety-one-
32 ninety-two, nineteen hundred ninety-two--ninety-three, nineteen hundred
33 ninety-three--ninety-four, and nineteen hundred ninety-four--ninety-five
34 which is submitted later than two years after the end of the nineteen
35 hundred ninety-five--ninety-six school year; provided, however, that no
36 payment shall be barred or reduced where such payment is required as a
37 result of a court order or judgment or a final audit, and provided
38 further that the commissioner may grant a waiver to a municipality
39 excusing the late filing of such a claim upon a finding that the delay
40 was caused by a party other than the municipality or a board to which
41 the municipality delegated authority pursuant to paragraph f of subdivi-
42 sion five or subdivision eight of this section.

43 [(v)] (VI) Notwithstanding any other provision of law to the contrary,
44 no payments shall be made by the commissioner pursuant to this section
45 on or after July first, nineteen hundred ninety-six based on a claim for
46 services provided in the nineteen hundred ninety-five--ninety-six school
47 year or thereafter which is submitted later than three years after the
48 end of the school year in which services were rendered, provided, howev-
49 er, that no payment shall be barred or reduced where such payment is
50 required as a result of a court order or judgment or a final audit, and
51 provided further that the commissioner may grant a waiver to a munici-
52 pality excusing the late filing of such a claim upon a finding that the
53 delay was caused by a party other than the municipality or a board to
54 which the municipality delegates authority pursuant to paragraph f of
55 subdivision five or subdivision eight of this section.

1 [(vi)] (VII) Notwithstanding any other provision of law to the contra-
2 ry, beginning with state reimbursement otherwise payable in the two
3 thousand six--two thousand seven state fiscal year and in each year
4 thereafter, payments pursuant to this section, subject to county agree-
5 ment and in the amounts specified in such agreement, shall be paid no
6 later than June thirtieth of the state fiscal year next following the
7 state fiscal year in which such reimbursement was otherwise eligible for
8 payment and in which the liability to the county for such state
9 reimbursement accrued, provided that such payments in a subsequent state
10 fiscal year shall be recognized by the state and the applicable county
11 as satisfying the state reimbursement obligation for the prior state
12 fiscal year. Any unspent amount associated with such county agreements
13 shall not be available for payments to other counties or municipalities.
14 S 4. This act shall take effect July 1, 2012.

PART K

16 Section 1. Paragraph h of subdivision 4 of section 1950 of the educa-
17 tion law is amended by adding a new subparagraph 8 to read as follows:
18 (8) TO ENTER INTO CONTRACTS WITH THE COMMISSIONER OF THE OFFICE OF
19 CHILDREN AND FAMILY SERVICES PURSUANT TO SUBDIVISION SIX-A OF SECTION
20 THIRTY-TWO HUNDRED TWO OF THIS CHAPTER TO PROVIDE TO SUCH OFFICE, FOR
21 THE BENEFIT OF YOUTH IN ITS CUSTODY, ANY SERVICES PROVIDED BY THE BOARD
22 OF COOPERATIVE EDUCATIONAL SERVICES TO COMPONENT SCHOOL DISTRICTS. ANY
23 SUCH PROPOSED CONTRACT SHALL BE SUBJECT TO THE REVIEW AND APPROVAL OF
24 THE COMMISSIONER TO DETERMINE THAT IT IS AN APPROVED COOPERATIVE EDUCA-
25 TIONAL SERVICE. SERVICES PROVIDED PURSUANT TO SUCH CONTRACTS SHALL BE
26 PROVIDED AT COST, AND THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES
27 SHALL NOT BE AUTHORIZED TO CHARGE ANY COSTS INCURRED IN PROVIDING SUCH
28 SERVICES TO ITS COMPONENT SCHOOL DISTRICTS.
29 S 2. Subdivision 6-a of section 3202 of the education law, as amended
30 by chapter 465 of the laws of 1992, is amended to read as follows:
31 6-a. Notwithstanding subdivision six of this section OR ANY OTHER LAW
32 TO THE CONTRARY, the [director of the division for youth] COMMISSIONER
33 OF THE OFFICE OF CHILDREN AND FAMILY SERVICES shall be responsible for
34 the secular education of youth under the jurisdiction of the [division]
35 OFFICE and may contract for such education with the trustees or board of
36 education of the school district wherein a facility for the residential
37 care of [division for] SUCH youth is located OR WITH THE BOARD OF COOP-
38 ERATIVE EDUCATIONAL SERVICES AT WHICH ANY SUCH SCHOOL DISTRICT IS A
39 COMPONENT DISTRICT. A youth attending a local public school while in
40 residence at such facility shall be deemed a resident of the school
41 district where his parent or guardian resides at the commencement of
42 each school year for the purpose of determining which school district
43 shall be responsible for the youth's tuition pursuant to section five
44 hundred four of the executive law.
45 S 3. This act shall take effect immediately.

PART L

47 Section 1. Section 527-1 of the executive law is REPEALED.
48 S 2. This act shall take effect April 1, 2012; provided, however, if
49 this act shall become a law after such date it shall take effect imme-
50 diately and shall be deemed to have been in full force and effect on and
51 after April 1, 2012.

1

PART M

2 Section 1. Paragraph (d) of subdivision 2 of section 530 of the execu-
3 tive law, as added by section 4 of subpart B of part Q of chapter 58 of
4 the laws of 2011, is amended to read as follows:

5 (d) (I) NOTWITHSTANDING ANY PROVISION OF LAW OR REGULATION TO THE
6 CONTRARY, ANY INFORMATION OR DATA NECESSARY FOR THE DEVELOPMENT,
7 COMPLETION, VALIDATION OR REVALIDATION OF THE DETENTION RISK ASSESSMENT
8 INSTRUMENT SHALL BE SHARED BETWEEN LOCAL PROBATION DEPARTMENTS, THE
9 DIVISION OF CRIMINAL JUSTICE SERVICES AND, WHERE AUTHORIZED BY THE DIVI-
10 SION, ANY ENTITY UNDER CONTRACT WITH THE DIVISION TO PROVIDE INFORMATION
11 TECHNOLOGY SERVICES, THE OFFICE, AND ANY ENTITY UNDER CONTRACT WITH THE
12 OFFICE TO PROVIDE SERVICES RELATING TO THE DEVELOPMENT, COMPLETION,
13 VALIDATION OR REVALIDATION OF THE DETENTION RISK ASSESSMENT INSTRUMENT.
14 (II) Data collected for the purposes of completing the detention risk
15 assessment instrument from any source other than an officially docu-
16 mented record shall be confirmed as soon as practicable. Should any data
17 originally utilized in completing the risk assessment instrument be
18 found to conflict with the officially documented record, the risk
19 assessment instrument shall be completed with the officially documented
20 data and any corresponding revision to the risk categorization shall be
21 made. The office shall periodically revalidate any approved risk assess-
22 ment instrument. The office shall conspicuously post any approved
23 detention risk assessment instrument on its website and shall confer
24 with appropriate stakeholders, including but not limited to, attorneys
25 for children, presentment agencies, probation, and the family court,
26 prior to revising any validated risk assessment instrument. Any such
27 revised risk assessment instrument shall be subject to periodic empir-
28 ical validation.

29 S 2. This act shall take effect immediately.

30 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
31 sion, section or part of this act shall be adjudged by any court of
32 competent jurisdiction to be invalid, such judgment shall not affect,
33 impair, or invalidate the remainder thereof, but shall be confined in
34 its operation to the clause, sentence, paragraph, subdivision, section
35 or part thereof directly involved in the controversy in which such judg-
36 ment shall have been rendered. It is hereby declared to be the intent of
37 the legislature that this act would have been enacted even if such
38 invalid provisions had not been included herein.

39 S 3. This act shall take effect immediately provided, however, that
40 the applicable effective date of Parts A through M of this act shall be
41 as specifically set forth in the last section of such Parts.