

8355

I N A S S E M B L Y

January 9, 2014

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

AN ACT to amend the education law, in relation to annual professional
performance review agreements

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

1 Section 1. Paragraph k of subdivision 2 of section 3012-c of the
2 education law, as added by chapter chapter 21 of the laws of 2012, is
3 amended to read as follows:
4 k. Notwithstanding any other provision of law, rule or regulation to
5 the contrary, by July first, two thousand twelve, the governing body of
6 each school district and board of cooperative educational services shall
7 adopt a plan, on a form prescribed by the commissioner, for the annual
8 professional performance review of all of its classroom teachers and
9 building principals in accordance with the requirements of this section
10 and the regulations of the commissioner, and shall submit such plan to
11 the commissioner for approval. The plan may be an annual or multi-year
12 plan, for the annual professional performance review of all of its
13 classroom teachers and building principals. The commissioner shall
14 approve or reject the plan by September first, two thousand twelve, or
15 as soon as practicable thereafter. THE COMMISSIONER SHALL REJECT ANY
16 ANNUAL PROFESSIONAL PERFORMANCE REVIEW PLANS THAT PROVIDE FOR THE ADMIN-
17 ISTRATION OF STANDARDIZED STATE ASSESSMENTS, OR VENDOR OR THIRD PARTY
18 DEVELOPED ASSESSMENTS OR OTHER COMPARABLE STANDARDIZED ASSESSMENTS TO
19 STUDENTS IN GRADES KINDERGARTEN THROUGH SECOND GRADE THAT ARE NOT BEING
20 USED FOR DIAGNOSTIC PURPOSES OR ARE OTHERWISE REQUIRED TO BE ADMINIS-
21 TERED BY FEDERAL LAW. The commissioner may ALSO reject a plan that does
22 not rigorously adhere to the provisions of this section and the regu-
23 lations of the commissioner. Should any plan be rejected, the commis-
24 sioner shall describe each deficiency in the submitted plan and direct
25 that each such deficiency be resolved through collective bargaining to
26 the extent required under article fourteen of the civil service law. If
27 any material changes are made to the plan, the school district or board
28 of cooperative educational services must submit the material changes, on

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

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1 a form prescribed by the commissioner, to the commissioner for approval.
2 To the extent that by July first, two thousand twelve, or by July first
3 of any subsequent year, if all the terms of the plan have not been
4 finalized as a result of unresolved collective bargaining negotiations,
5 the entire plan shall be submitted to the commissioner upon resolution
6 of all of its terms, consistent with article fourteen of the civil
7 service law.

8 S 2. Subdivision 2 of section 3012-c of the education law is amended
9 by adding a new paragraph k-1 to read as follows:

10 K-1. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE
11 CONTRARY, NO ANNUAL PROFESSIONAL PERFORMANCE PLAN UNDER THIS SECTION
12 SHALL PROVIDE FOR THE ADMINISTRATION OF STANDARDIZED STATE ASSESSMENTS
13 OR THIRD PARTY ASSESSMENTS, TO STUDENTS IN KINDERGARTEN THROUGH GRADE
14 TWO THAT ARE NOT BEING USED FOR DIAGNOSTIC PURPOSES OR ARE REQUIRED TO
15 BE ADMINISTERED BY FEDERAL LAW; EXCEPT THAT NOTHING IN THIS SUBDIVISION
16 SHALL PRECLUDE THE USE OF SCHOOL-WIDE MEASURES USING EITHER STATE
17 ASSESSMENTS OR DEPARTMENT APPROVED ASSESSMENTS THAT ARE ADMINISTERED TO
18 STUDENTS IN HIGHER GRADES IN THE SCHOOL, IF OTHERWISE ALLOWED UNDER THIS
19 SECTION OR THE REGULATIONS OF THE COMMISSIONER. FOR PURPOSES OF THIS
20 SECTION, THE ONLY ALLOWABLE ASSESSMENTS TO BE ADMINISTERED TO STUDENTS
21 IN KINDERGARTEN THROUGH GRADE TWO SHALL BE LOCALLY DEVELOPED ASSESSMENTS
22 OR ASSESSMENTS USED FOR DIAGNOSTIC PURPOSES OR THAT ARE OTHERWISE
23 REQUIRED TO BE ADMINISTERED BY FEDERAL LAW. FOR PURPOSES OF THIS
24 SECTION, "LOCALLY DEVELOPED ASSESSMENTS" SHALL MEAN DISTRICT, BOCES OR
25 REGIONALLY DEVELOPED ASSESSMENTS THAT ARE RIGOROUS AND COMPARABLE ACROSS
26 CLASSROOMS AND MAY INCLUDE LOCALLY DEVELOPED PERFORMANCE ASSESSMENTS.
27 LOCALLY DEVELOPED ASSESSMENTS SHALL NOT INCLUDE ASSESSMENTS DEVELOPED BY
28 ANY VENDOR, THIRD PARTY OR OTHER COMPARABLE ENTITY.

29 S 3. Subdivision 15 of section 3602-e of the education law, as amended
30 by section 19 of part B of chapter 57 of the laws of 2007, is amended to
31 read as follows:

32 15. The commissioner shall also provide for a system for evaluation
33 and assessment of the prekindergarten programs which have been imple-
34 mented to determine the short and long-term success, outcomes and
35 effects of the programs based on relevant and measurable performance
36 standards. THE COMMISSIONER SHALL PROHIBIT THE ADMINISTRATION OF STATE
37 DEVELOPED STANDARDIZED STUDENT ASSESSMENTS IN PREKINDERGARTEN PROGRAMS
38 AND PREKINDERGARTEN PROGRAMS SHALL NOT ADMINISTER ANY VENDOR OR THIRD
39 PARTY DEVELOPED STANDARDIZED STUDENT ASSESSMENTS, OR OTHER COMPARABLE
40 STANDARDIZED STUDENT ASSESSMENTS TO STUDENTS ENROLLED IN PREKINDERGARTEN
41 THAT ARE NOT BEING USED FOR A DIAGNOSTIC PURPOSE.

42 S 4. The opening paragraph of subparagraph 2 of paragraph f of subdi-
43 vision 2 of section 3012-c of the education law, as amended by chapter
44 21 of the laws of 2012, is amended to read as follows:

45 One or more of the following types of locally selected measures of
46 student achievement or growth may be used for the evaluation of class-
47 room teachers, PROVIDED THAT NO SUCH MEASURES SHALL INCLUDE SCORES FROM
48 STUDENTS IN KINDERGARTEN THROUGH SECOND GRADE ON STATE ASSESSMENTS OR
49 OTHER DEPARTMENT APPROVED STANDARDIZED STUDENT ASSESSMENTS, EXCEPT
50 SCORES ON LOCALLY DEVELOPED ASSESSMENTS AS DEFINED IN PARAGRAPH K-1 OF
51 THIS SECTION:

52 S 5. The opening paragraph of subparagraph 2 of paragraph g of subdi-
53 vision 2 of section 3012-c of the education law, as amended by chapter
54 21 of the laws of 2012, is amended to read as follows:

55 One or more of the following types of locally selected measures of
56 student achievement or growth may be used for the evaluation of class-

1 room teachers, PROVIDED THAT NO SUCH MEASURES SHALL INCLUDE SCORES FROM
2 STUDENTS IN KINDERGARTEN THROUGH SECOND GRADE ON STATE ASSESSMENTS OR
3 OTHER STANDARDIZED STUDENT ASSESSMENTS, EXCEPT SCORES ON LOCALLY DEVEL-
4 OPED ASSESSMENTS AS DEFINED IN PARAGRAPH K-1 OF THIS SECTION:
5 S 6. This act shall take effect immediately; provided that the commis-
6 sioner of education is authorized to promulgate any and all rules and
7 regulations and take any other measures necessary to implement this act
8 on its effective date; and provided further that the provisions of this
9 act shall not apply to any annual professional performance review agree-
10 ment entered into pursuant to a collective bargaining agreement prior to
11 the effective date of this act, which shall remain in effect in accord-
12 ance with paragraph 1 of section three thousand twelve-c of the educa-
13 tion law until a subsequent plan is agreed to by the parties and
14 approved by the commissioner in accordance with section three thousand
15 twelve-c of the education law.