

4893

2013-2014 Regular Sessions

I N A S S E M B L Y

February 13, 2013

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

AN ACT to amend the education law, in relation to empowering school boards to make decisions regarding employment based on performance, qualifications and the best interests of the students

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

1 Section 1. Subdivision 2 of section 1505-a of the education law, as
2 added by chapter 871 of the laws of 1982, is amended to read as follows:
3 2. [Any] NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,
4 ANY such teacher who is unable to obtain a teaching position in any such
5 school district to which territory is added, because the number of posi-
6 tions needed are less than the number of teachers eligible to be consid-
7 ered employees pursuant to subdivision one of this section, shall, in
8 all such school districts to which territory is added, be placed on a
9 preferred eligible list of candidates for appointment to a vacancy that
10 may thereafter occur in a position similar to the one such teacher
11 filled in such former school district[. The teachers on such a preferred
12 eligible list shall be appointed to such vacancies in such corresponding
13 or similar positions under the jurisdiction of the school district to
14 which territory is added in the order of their length of service in such
15 former school district, within seven years from the date of the dissol-
16 ution of such former school district] PURSUANT TO THE PROVISIONS OF
17 SUBPARAGRAPHS (I), (II), (III) AND (IV) OF PARAGRAPH A AND PARAGRAPH B
18 OF SUBDIVISION THIRTEEN AND SUBDIVISION THIRTEEN-A OF SECTION EIGHTEEN
19 HUNDRED FOUR OF THIS TITLE.
20 S 2. Section 1804 of the education law is amended by adding two new
21 subdivisions 13 and 13-a to read as follows:
22 13. A. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,
23 WHENEVER A BOARD OF EDUCATION ABOLISHES OR REDUCES A POSITION OR POSI-
24 TIONS UNDER THIS CHAPTER, THE SUPERINTENDENT FOR THE SCHOOL DISTRICT

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

LBD08563-02-3

1 SHALL RECOMMEND WHICH TEACHER OR TEACHERS SHOULD BE RETAINED. SUCH
2 RECOMMENDATION SHALL BE BASED ON AN EVALUATION OF THE TEACHER'S PERFORM-
3 ANCE, QUALIFICATIONS AND THE EDUCATIONAL NEEDS OF THE SCHOOL INCLUDING
4 BUT NOT LIMITED TO:

5 (I) ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED PURSUANT TO
6 SECTION THREE THOUSAND TWELVE-C OF THIS CHAPTER;

7 (II) STUDENT EDUCATIONAL ACHIEVEMENTS, PROGRESS AND PERFORMANCE;

8 (III) TEACHER EDUCATIONAL QUALIFICATIONS, LENGTH OF SERVICE, CERTIF-
9 ICATIONS, DEMONSTRATED ABILITY AND ATTENDANCE; AND

10 (IV) THE NEEDS OF THE SCHOOL FOR PARTICULAR LICENSE AREAS, CURRICULUM,
11 SPECIALIZED EDUCATION, DEGREES, OR AREAS OF EXPERTISE.

12 THE TEACHER'S SALARY SHALL NOT BE A FACTOR IN MAKING A RECOMMENDATION
13 AS TO WHICH TEACHER OR TEACHERS SHALL BE RETAINED. THE BOARD OF EDUCA-
14 TION SHALL EXERCISE ITS DISCRETION AND SHALL APPROVE OR REJECT THE
15 RECOMMENDATIONS OF THE SUPERINTENDENT SO AS TO MINIMIZE THE ADVERSE
16 IMPACT ON STUDENTS AND THE EDUCATIONAL STRENGTH OF THE SCHOOL DISTRICT.

17 B. IF A TEACHING POSITION IS ABOLISHED OR REDUCED, THE PERSON FILLING
18 SUCH POSITION AT THE TIME OF ITS ABOLISHMENT OR REDUCTION SHALL BE
19 PLACED UPON A PREFERRED ELIGIBLE LIST OF CANDIDATES FOR APPOINTMENT TO A
20 VACANCY THAT THEN EXISTS OR THAT MAY THEREAFTER OCCUR IN A POSITION
21 SIMILAR TO THE ONE WHICH SUCH PERSON FILLED WITHOUT REDUCTION IN SALARY
22 OR INCREMENT, PROVIDED SUCH PERSON HAS PROVIDED FAITHFUL, COMPETENT
23 SERVICE IN THE OFFICE OR POSITION HE OR SHE HAS FILLED.

24 13-A. A. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,
25 WHENEVER A BOARD OF EDUCATION ABOLISHES OR REDUCES AN OFFICE OR ADMINIS-
26 TRATIVE POSITIONS UNDER THIS CHAPTER THE PRINCIPAL FOR THE SCHOOL OR
27 OTHER BUILDING ADMINISTRATOR IN CHARGE OF THE SCHOOL OR PROGRAM SHALL
28 RECOMMEND WHICH OFFICE OR ADMINISTRATIVE POSITIONS SHOULD BE RETAINED.
29 SUCH RECOMMENDATIONS SHALL BE BASED UPON AN EVALUATION OF THE PERFORM-
30 ANCE AND QUALIFICATIONS OF THE INDIVIDUAL.

31 B. IF AN OFFICE OR ADMINISTRATIVE POSITION IS ABOLISHED OR REDUCED,
32 THE PERSON FILLING SUCH POSITION AT THE TIME OF ITS ABOLISHMENT OR
33 REDUCTION SHALL BE PLACED UPON A PREFERRED ELIGIBLE LIST OF CANDIDATES
34 FOR APPOINTMENT TO A VACANCY THAT THEN EXISTS OR THAT MAY THEREAFTER
35 OCCUR IN AN OFFICE OR POSITION SIMILAR TO THE ONE WHICH SUCH PERSON
36 FILLED WITHOUT REDUCTION IN SALARY OR INCREMENT, PROVIDED SUCH PERSON
37 HAS PROVIDED FAITHFUL, COMPETENT SERVICE IN THE OFFICE OR POSITIONS HE
38 OR SHE HAS FILLED.

39 S 3. Section 1917 of the education law, as added by chapter 732 of the
40 laws of 1981, is amended to read as follows:

41 S 1917. Employees; employment rights. [Teachers] NOTWITHSTANDING ANY
42 OTHER PROVISION OF LAW TO THE CONTRARY, TEACHERS and other staff members
43 of component districts, except the superintendent of schools, whose
44 services in the component districts are no longer needed because of
45 creation of a central high school district, shall be granted employment
46 rights in central high school districts in accordance with [length of
47 service in each tenure area] THE PROVISIONS OF SUBPARAGRAPHS (I), (II),
48 (III) AND (IV) OF PARAGRAPH A OF SUBDIVISION THIRTEEN AND PARAGRAPH A OF
49 SUBDIVISION THIRTEEN-A OF SECTION EIGHTEEN HUNDRED FOUR OF THIS TITLE.

50 S 4. Section 1917-a of the education law, as added by section 93 of
51 part L of chapter 405 of the laws of 1999, is amended to read as
52 follows:

53 S 1917-a. Employees; employment rights; creation of new central high
54 school district. 1. [Teachers] NOTWITHSTANDING ANY OTHER PROVISION OF
55 LAW TO THE CONTRARY, TEACHERS and other staff members of component
56 districts, except the superintendent of schools, whose services in the

1 component districts are no longer needed because of the creation of a
2 central high school district or the transference of students to an
3 existing central high school district, shall be granted employment
4 rights in central high school districts in accordance with the
5 provisions of this section.

6 2. As used in this section, a "component district" shall mean a
7 central, union free or common school district within the territory of
8 the central high school district, and a "central high school district"
9 shall mean a central high school district existing or created pursuant
10 to this article.

11 3. In any case in which a component district sends students to a
12 central high school district, each teacher and all other employees
13 previously employed in the education of such students by such component
14 district prior to the time that such component district sends its
15 students to a central high school district shall be considered employees
16 of such central high school district, with the same tenure status held
17 in such component district.

18 For purposes of this section, when a component district takes back
19 students that it sent to another district on a tuition basis and sends
20 such students to a central high school district, such central high
21 school district shall be deemed the "sending district" for purposes of
22 the rights and protections provided in section three thousand fourteen-c
23 of this chapter.

24 4. If the number of teaching and other positions needed to provide the
25 educational services required by such central high school district is
26 less than the number of teachers and other employees eligible to be
27 considered employees of such central high school district as provided by
28 subdivision three of this section, [the services of the teachers and
29 other employees having the least seniority in the component district
30 within the tenure area of the position shall be discontinued] DECISIONS
31 ABOUT THE RETENTION OF TEACHERS AND OTHER EMPLOYEES IN THE COMPONENT
32 DISTRICT SHALL BE MADE PURSUANT TO SUBPARAGRAPHS (I), (II), (III) AND
33 (IV) OF PARAGRAPH A AND PARAGRAPH B OF SUBDIVISION THIRTEEN AND SUBDIVI-
34 SION THIRTEEN-A OF SECTION EIGHTEEN HUNDRED FOUR OF THIS TITLE RESPEC-
35 TIVELY. Such teachers and other employees NOT RETAINED AS EMPLOYEES
36 shall be placed on a preferred eligible list of candidates for appoint-
37 ment, PURSUANT TO PARAGRAPH B OF SUBDIVISION THIRTEEN AND PARAGRAPH B OF
38 SUBDIVISION THIRTEEN-A OF SECTION EIGHTEEN HUNDRED FOUR OF THIS TITLE,
39 to a vacancy that may thereafter occur in an office or position under
40 the jurisdiction of the component district, the "receiving district" as
41 defined in section three thousand fourteen-c of this chapter, from which
42 a component district has taken back students, and the central high
43 school district similar to the one such teacher or other employee filled
44 in such component district. The teachers and other employees on such
45 preferred lists shall be reinstated or appointed to such vacancies in
46 such corresponding or similar positions under the jurisdiction of the
47 component district or the central high school district [in the order of
48 their length of service in such component district, within seven years
49 from the date of the abolition of such office or position] PURSUANT TO
50 THE CRITERIA OUTLINED IN SUBPARAGRAPHS (I), (II), (III) AND (IV) OF
51 PARAGRAPH A OF SUBDIVISION THIRTEEN AND PARAGRAPH A OF SUBDIVISION THIR-
52 TEEN-A OF SECTION EIGHTEEN HUNDRED FOUR OF THIS TITLE.

53 5. For any such teacher or other employee as described in subdivision
54 three of this section for salary, sick leave and any other purposes, the
55 length of service credited in such component district shall be credited
56 as employment time with such central high school district.

1 6. This section shall in no way be construed to limit the rights of
2 any of such teachers or other employees described in this section grant-
3 ed by any other provision of law.

4 S 5. Section 2510 of the education law, as added by chapter 762 of the
5 laws of 1950, subdivision 3 as amended by chapter 240 of the laws of
6 1992 and paragraph (a) of subdivision 3 as amended by chapter 236 of the
7 laws of 1993, is amended to read as follows:

8 S 2510. Abolition of office or position. 1. If the board of education
9 abolishes an office or position and creates another office or position
10 for the performance of duties similar to those performed in the office
11 or position abolished, the person filling such office or position at the
12 time of its abolishment shall be appointed to the office or position
13 thus created without reduction in salary or increment, provided the
14 record of such person has been one of faithful, competent service in the
15 office or position he OR SHE has filled.

16 2. [Whenever] NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE
17 CONTRARY, WHENEVER a board of education abolishes a position under this
18 chapter, [the services of the teacher having the least seniority in the
19 system within the tenure of the position abolished shall be discontin-
20 ued] TERMINATION DECISIONS SHALL BE MADE PURSUANT TO CRITERIA OUTLINED
21 IN SUBPARAGRAPHS (I), (II), (III) AND (IV) OF PARAGRAPH A OF SUBDIVISION
22 THIRTEEN AND PARAGRAPH A OF SUBDIVISION THIRTEEN-A OF SECTION EIGHTEEN
23 HUNDRED FOUR OF THIS TITLE.

24 3. (a) If an office or position is abolished or if it is consolidated
25 with another position without creating a new position, the person fill-
26 ing such position at the time of its abolishment or consolidation shall
27 be placed upon a preferred eligible list of candidates for appointment
28 to a vacancy that then exists or that may thereafter occur in an office
29 or position similar to the one which such person filled [without
30 reduction in salary or increment, provided the record of such person has
31 been one of faithful, competent service in the office or position he has
32 filled. The persons on such preferred list shall be reinstated or
33 appointed to such vacancies in such corresponding or similar positions
34 in the order of their length of service in the system at any time within
35 seven years from the date of abolition or consolidation of such office
36 or position] PURSUANT TO THE PROVISIONS OF PARAGRAPH B OF SUBDIVISION
37 THIRTEEN AND PARAGRAPH B OF SUBDIVISION THIRTEEN-A OF SECTION EIGHTEEN
38 HUNDRED FOUR OF THIS TITLE. Notwithstanding any other provision of law
39 to the contrary, in the event that a member of the New York state teach-
40 ers' retirement system, who is receiving a disability retirement allow-
41 ance, shall have such disability retirement allowance rescinded, such
42 member shall be placed upon such preferred eligible list as of the
43 effective date of his or her disability retirement.

44 (b) The persons on such preferred list shall be reinstated, in accord-
45 ance with the terms of paragraph (a) of this subdivision, to such
46 substitute positions of five months or more in duration, as may from
47 time to time occur without losing their preferred status on such list.
48 Declination of such reinstatement shall not adversely affect the
49 persons' preferred eligibility status.

50 S 6. Section 3013 of the education law, as added by chapter 737 of the
51 laws of 1992, is amended to read as follows:

52 S 3013. Abolition of office or position. 1. [If] NOTWITHSTANDING ANY
53 OTHER PROVISION OF LAW TO THE CONTRARY, IF a trustee, board of trustees,
54 board of education or board of cooperative educational services abol-
55 ishes an office or position and creates another office or position [for
56 the performance of duties similar to those performed in the office or

1 position abolished, the person filling such office or position at the
2 time of its abolishment shall be appointed to the office or position
3 thus created without reduction in salary or increment, provided the
4 record of such person has been one of faithful, competent service in the
5 office or position he or she has filled], DECISIONS REGARDING EMPLOYEE
6 RETENTION SHALL BE MADE PURSUANT TO THE PROVISIONS OF SUBDIVISIONS THIR-
7 TEEN AND THIRTEEN-A OF SECTION EIGHTEEN HUNDRED FOUR OF THIS CHAPTER.

8 2. [Whenever a trustee, board of trustee, board of education or board
9 of cooperative educational services abolishes a position under this
10 chapter, the services of the teacher having the least seniority in the
11 system within the tenure of the position abolished shall be discontin-
12 ued.

13 3. (a) If an office or position is abolished or if it is consolidated
14 with another position without creating a new position, the [person fill-
15 ing such position at the time of its abolishment or consolidation shall
16 be placed upon a preferred eligible list of candidates for appointment
17 to a vacancy that then exists or that may thereafter occur in an office
18 or position similar to the one which such person filled without
19 reduction in salary or increment, provided the record of such person has
20 been one of faithful, competent service in the office or position he or
21 she has filled. The persons on such preferred list shall be reinstated
22 or appointed to such vacancies in such corresponding or similar posi-
23 tions in the order of their length of service in the system at any time
24 within seven years from the date of abolition or consolidation of such
25 office or position] PROVISIONS OF PARAGRAPH B OF SUBDIVISIONS THIRTEEN
26 AND THIRTEEN-A OF SECTION EIGHTEEN HUNDRED FOUR OF THIS CHAPTER SHALL
27 CONTROL.

28 [(b)] 3. The persons on such preferred list shall be reinstated, in
29 accordance with the terms of [paragraph (a)] SUBDIVISION ONE of this
30 [subdivision] SECTION, to such substitute positions of five months or
31 more in duration, as may from time to time occur without losing their
32 preferred status on such list. Declination of such reinstatement shall
33 not adversely affect the persons' preferred eligibility status.

34 S 7. Section 3014-a of the education law, as amended by chapter 511 of
35 the laws of 1998, is amended to read as follows:

36 S 3014-a. Teachers' rights as a result of a board or boards of cooper-
37 ative educational services taking over a program formerly operated by a
38 school district or districts or by a county vocational education and
39 extension board. 1. In any case in which a board or boards of cooper-
40 ative educational services duly take over the operation of a program
41 formerly provided by a school district or school districts or by a coun-
42 ty vocational education and extension board, each teacher, teaching
43 assistant and teacher aide employed in such a program by such a school
44 district or such a county vocational education and extension board at
45 the time of such takeover by the board or boards of cooperative educa-
46 tional services, shall be considered an employee of such board or boards
47 of cooperative educational services with the same tenure or civil
48 service status he OR SHE maintained in such school district or in such
49 county vocational education and extension board.

50 2. [If] NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IF
51 the number of teaching positions needed to provide the services required
52 by such program by the board or boards of cooperative educational
53 services is less than the number of teachers, teaching assistants and
54 teacher aides eligible to be considered employees of such board or
55 boards of cooperative educational services as provided by subdivision
56 one of this section, [the services of the teachers, teaching assistants

1 and teacher aides having the least seniority in the school district or
2 school districts or county vocational education and extension board
3 whose programs are taken over by the board or boards of cooperative
4 educational services within the tenure area or civil service title of
5 the position shall be discontinued. Such teachers, teaching assistants
6 and teacher aides shall be placed on a preferred eligible list of candi-
7 dates for appointment to a vacancy that may thereafter occur in an
8 office or position under the jurisdiction of the board or boards of
9 cooperative educational services similar to the one such teacher, teach-
10 ing assistant and teacher aide filled in such school district or school
11 districts or such county vocational education and extension board. The
12 teachers, teaching assistants and teacher aides on such preferred list
13 shall be reinstated or appointed to such vacancies in such corresponding
14 or similar positions under the jurisdiction of the board or boards of
15 cooperative educational services in the order of their length of service
16 in such school district or school districts or in such county vocational
17 education and extension board, within seven years from the date of the
18 abolition of such office or position] DECISIONS REGARDING THE RETENTION
19 OF EMPLOYEES AND THE PROCEDURES FOR LAID OFF EMPLOYEES SHALL BE MADE
20 PURSUANT TO THE PROVISIONS OF SUBPARAGRAPHS (I), (II), (III) AND (IV) OF
21 PARAGRAPH A AND PARAGRAPH B OF SUBDIVISION THIRTEEN AND SUBDIVISION
22 THIRTEEN-A OF SECTION EIGHTEEN HUNDRED FOUR OF THIS CHAPTER.

23 3. For any such teacher, teaching assistant and teacher aide as set
24 forth in subdivision one of this section for salary, sick leave and any
25 other purposes, the length of service credited in such school district
26 or in such county vocational education and extension board shall be
27 credited as employment time with such board or boards of cooperative
28 educational services.

29 4. This section shall in no way be construed to limit the rights of
30 any of such employees set forth in this section granted by any other
31 provision of law.

32 5. Program takeovers pursuant to this section shall be considered a
33 transfer pursuant to section seventy of the civil service law.

34 S 8. Section 3014-b of the education law, as amended by chapter 511 of
35 the laws of 1998, is amended to read as follows:

36 S 3014-b. Teachers' rights as a result of a school district taking
37 over a program formerly operated by a board of cooperative educational
38 services. 1. In any case in which a school district duly takes over the
39 operation of a program formerly provided by a board of cooperative
40 educational services, each teacher, teaching assistant and teacher aide
41 employed in such a program by such a board of cooperative educational
42 services at the time of such takeover by the school district shall be
43 considered an employee of such school district, with the same tenure or
44 civil service status he OR SHE maintained in such board of cooperative
45 educational services.

46 2. [If] NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IF
47 the number of teaching positions needed to provide the services required
48 by such program by the school district is less than the number of teach-
49 ers, teaching assistants and teacher aides eligible to be considered
50 employees of such school district as provided by subdivision one of this
51 section, [the services of the teachers, teaching assistants and teacher
52 aides having the least seniority in the board of cooperative educational
53 services whose programs are taken over by the school district within the
54 tenure area or civil service title of the position shall be discontin-
55 ued. Such teachers, teaching assistants and teacher aides shall be
56 placed on a preferred eligible list of candidates for appointment to a

1 vacancy that may thereafter occur in an office or position under the
2 jurisdiction of the school district similar to the one such teacher,
3 teaching assistant and teacher aide filled in such board of cooperative
4 educational services. The teachers, teaching assistants and teacher
5 aides on such preferred list shall be reinstated or appointed to such
6 vacancies in such corresponding or similar positions under the jurisdic-
7 tion of the school district in the order of their length of service in
8 such board of cooperative educational services, within seven years from
9 the date of the abolition of such office or position] DECISIONS REGARD-
10 ING THE RETENTION OF EMPLOYEES AND THE PROCEDURES FOR LAID OFF EMPLOYEES
11 SHALL BE MADE PURSUANT TO THE PROVISIONS OF SUBPARAGRAPHS (I), (II),
12 (III) AND (IV) OF PARAGRAPH A AND PARAGRAPH B OF SUBDIVISION THIRTEEN
13 AND SUBDIVISION THIRTEEN-A OF SECTION EIGHTEEN HUNDRED FOUR OF THIS
14 CHAPTER.

15 3. For any such teacher, teaching assistant and teacher aide as set
16 forth in subdivision one of this section for salary, sick leave and any
17 other purposes, the length of service credited in such board of cooper-
18 ative educational services shall be credited as employment time with
19 such school district.

20 4. In the event that more than one school district duly takes over the
21 operation of a program formerly provided by a board of cooperative
22 educational services, then each teacher, teaching assistant and teacher
23 aide employed in such program by such board of cooperative educational
24 services at the time of such takeover by more than one school district,
25 shall select the particular school district in which he OR SHE shall be
26 considered an employee, with all of the rights and privileges provided
27 by the other provisions of this section. Such selection of the partic-
28 ular school district by such teacher, teaching assistant and teacher
29 aide is to be based upon [the seniority of each teacher, teaching
30 assistant and teacher aide in such board of cooperative educational
31 services, with the right of selection passing from such teachers, teach-
32 ing assistants and teacher aides with the most seniority to such teach-
33 ers, teaching assistants and teacher aides with least seniority. Any
34 such teacher, teaching assistant and teacher aide who is unable to
35 obtain a teaching position in any such school districts because the
36 number of positions needed to provide the services required in such
37 programs with such school districts are less than the number of teach-
38 ers, teaching assistants and teachers aides eligible to be considered
39 employees of such school districts, shall be placed on a preferred
40 eligible list in all such school districts in the method and with all of
41 the rights provided by the other provisions of this section] THE
42 PROVISIONS OF SUBPARAGRAPHS (I), (II), (III) AND (IV) OF PARAGRAPH A OF
43 SUBDIVISION THIRTEEN AND PARAGRAPH B OF SUBDIVISION THIRTEEN-A OF
44 SECTION EIGHTEEN HUNDRED FOUR OF THIS CHAPTER.

45 5. This section shall in no way be construed to limit the rights of
46 any of such employees set forth in this section granted by any other
47 provision of law.

48 S 9. Section 3014-c of the education law, as added by chapter 706 of
49 the laws of 1989, is amended to read as follows:

50 S 3014-c. Teachers' rights as a result of a school district taking
51 back tuition students. 1. As used in this section, a "sending district"
52 shall mean a school district which previously sent students to another
53 school district on a tuition basis pursuant to section two thousand
54 forty of this chapter, and a "receiving district" shall mean a school
55 district which provided the educational program for students from anoth-

1 er district on a tuition basis pursuant to section two thousand forty of
2 this chapter.

3 2. In any case in which a sending district assumes the education of
4 students formerly provided by a receiving district, each teacher
5 employed in the education of such students by such receiving district at
6 the time of such take back by the sending district shall be considered
7 an employee of such sending district, with the same tenure status he OR
8 SHE maintained in such receiving district.

9 3. [If] NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IF
10 the number of teaching positions needed to provide the educational
11 services required by such sending district is less than the number of
12 teachers eligible to be considered employees of such sending district as
13 provided by subdivision two of this section, [the services of the teach-
14 ers having the least seniority in the receiving district whose students
15 are taken back by the sending district within the tenure area of the
16 position shall be discontinued. Such teachers shall be placed on a
17 preferred eligible list of candidates for appointment to a vacancy that
18 may thereafter occur in an office or position under the jurisdiction of
19 the sending district and the receiving district similar to the one such
20 teacher filled in such receiving district. The teachers on such
21 preferred list shall be reinstated or appointed to such vacancies in
22 such corresponding or similar positions under the jurisdiction of the
23 sending district or the receiving district in the order of their length
24 of service in such receiving district, within seven years from the date
25 of the abolition of such office or position] DECISIONS REGARDING THE
26 RETENTION OF EMPLOYEES SHALL BE MADE PURSUANT TO THE PROVISIONS OF
27 SUBPARAGRAPHS (I), (II), (III) AND (IV) OF PARAGRAPH A OF SUBDIVISION
28 THIRTEEN AND PARAGRAPH A OF SUBDIVISION THIRTEEN-A OF SECTION EIGHTEEN
29 HUNDRED FOUR OF THIS CHAPTER.

30 4. For any such teacher as described in subdivision two of this
31 section for salary, sick leave and any other purposes, the length of
32 service credited in such receiving district shall be credited as employ-
33 ment time with such sending district.

34 5. In the event that more than one sending district assumes the educa-
35 tion of students formerly provided by a receiving district, then each
36 teacher employed in the education of such students in such receiving
37 district at the time of such take back by more than one sending
38 district, shall select the particular sending district in which he OR
39 SHE shall be considered an employee, with all of the rights and privi-
40 leges provided by the other provisions of this section. [Such selection
41 of the particular sending district by such teacher is to be based upon
42 each teacher's seniority in such receiving district, with the right of
43 selection passing from such teachers with the most seniority to such
44 teachers with least seniority.] Any such teacher who is unable to obtain
45 a teaching position in any such sending district because the number of
46 positions needed to provide the services required with such sending
47 district are less than the number of teachers eligible to be considered
48 employees of such sending districts, shall be placed on a preferred
49 eligible list in all such sending districts in the method and with all
50 of the rights provided by the other provisions of this section.

51 6. This section shall in no way be construed to limit the rights of
52 any of such teachers described in this section granted by any other
53 provision of law.

54 S 10. Section 3014-d of the education law, as added by chapter 706 of
55 the laws of 1989, is amended to read as follows:

1 S 3014-d. Teachers' rights as a result of a school district sending
2 students to another district on a tuition basis pursuant to section two
3 thousand forty of this chapter. 1. As used in this section, a "sending
4 district" shall mean a school district which sends students to another
5 school district on a tuition basis pursuant to section two thousand
6 forty of this chapter, and a "receiving district" shall mean a school
7 district which receives and provides the educational program for
8 students from another district on a tuition basis pursuant to section
9 two thousand forty of this chapter.

10 2. In any case in which a sending district sends such students to a
11 receiving district, each teacher previously employed in the education of
12 students by such sending district prior to the time that such sending
13 district sends its students to a receiving district shall be considered
14 an employee of such receiving district, with the same tenure status he
15 OR SHE maintained in such sending district.

16 3. [If] NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IF
17 the number of teaching positions needed to provide the educational
18 services required by such receiving district is less than the number of
19 teachers eligible to be considered employees of such receiving district
20 as provided by subdivision two of this section, [the services of the
21 teachers having the least seniority in the sending district within the
22 tenure area of the position shall be discontinued. Such teachers shall
23 be placed on a preferred eligible list of candidates for appointment to
24 a vacancy that may thereafter occur in an office or position under the
25 jurisdiction of the sending district and the receiving district similar
26 to the one such teacher filled in such sending district. The teachers on
27 such preferred list shall be reinstated or appointed to such vacancies
28 in such corresponding or similar positions under the jurisdiction of the
29 sending district or the receiving district in the order of their length
30 of service in such sending district, within seven years from the date of
31 the abolition of such office or position] DECISIONS REGARDING THE
32 RETENTION OF EMPLOYEES SHALL BE MADE PURSUANT TO THE PROVISIONS OF
33 SUBPARAGRAPHS (I), (II), (III) AND (IV) OF PARAGRAPH A OF SUBDIVISION
34 THIRTEEN AND PARAGRAPH A OF SUBDIVISION THIRTEEN-A OF SECTION EIGHTEEN
35 HUNDRED FOUR OF THIS CHAPTER.

36 4. For any such teacher as described in subdivision two of this
37 section for salary, sick leave and any other purposes, the length of
38 service credited in such sending district shall be credited as employ-
39 ment time with such receiving district.

40 5. This section shall in no way be construed to limit the rights of
41 any of such teachers described in this section granted by any other
42 provision of law.

43 S 11. This act shall take effect immediately.