

8929

I N   A S S E M B L Y

February 28, 2014

---

Introduced by M. of A. NOLAN, SILVER, GLICK, MORELLE, ABINANTI, BUCHWALD, FAHY, JAFFEE, PAULIN, RYAN, SCHIMEL, BENEDETTO, BRAUNSTEIN, JACOBS, MAGNARELLI, MILLMAN, ORTIZ, PERRY, ROBINSON, ROSENTHAL, RUSSELL, SCARBOROUGH, SCHIMMINGER, SEPULVEDA, STECK, STIRPE, THIELE -- Multi-Sponsored by -- M. of A. ABBATE, BRENNAN, BRINDISI, BRONSON, CAHILL, CLARK, COOK, CRESPO, DAVILA, DenDEKKER, DINOWITZ, ENGLEBRIGHT, FARRELL, HEASTIE, HENNESSEY, HEVESI, HOOPER, KIM, LAVINE, LENTOL, LUPARDO, MAGEE, MARKEY, MAYER, McDONALD, MOYA, O'DONNELL, OTIS, PICHARDO, RODRIGUEZ, SANTABARBARA, SKARTADOS, SKOUFIS, SWEENEY, TITONE, WEINSTEIN, WEISENBERG, ZEBROWSKI -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to reforms in common core

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

1     Section 1. Section 3012-c of the education law is amended by adding a  
2     new subdivision 2-a to read as follows:  
3     2-A. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE  
4     CONTRARY, FOR THE TWO THOUSAND THIRTEEN--TWO THOUSAND FOURTEEN AND TWO  
5     THOUSAND FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEARS, A CLASSROOM TEACH-  
6     ER'S OR BUILDING PRINCIPAL'S (I) STATE ASSESSMENTS AND OTHER COMPARABLE  
7     MEASURES SUBCOMPONENT SCORE OR (II) LOCALLY SELECTED MEASURES OF STUDENT  
8     ACHIEVEMENT SUBCOMPONENT SCORE SHALL NOT BE CONSIDERED WHEN CALCULATING  
9     SUCH TEACHER'S OR PRINCIPAL'S COMPOSITE EFFECTIVENESS SCORE IF SUCH  
10    SUBCOMPONENT SCORE OR SCORES WERE BASED IN WHOLE OR IN PART ON A STATE  
11    ADMINISTERED STANDARDIZED ENGLISH LANGUAGE ARTS AND/OR MATH ASSESSMENTS  
12    ALIGNED TO THE COMMON CORE LEARNING STANDARDS ADOPTED BY THE BOARD OF  
13    REGENTS; PROVIDED THAT IN SUCH CASES, THE COMPOSITE EFFECTIVENESS SCORE  
14    OF SUCH TEACHER OR PRINCIPAL SHALL BE CALCULATED BY DIVIDING SUCH TEACH-  
15    ER'S OR PRINCIPAL'S SUBCOMPONENT SCORE OR SCORES THAT ARE NOT EXCLUDED  
16    BY THIS SUBDIVISION BY THE MAXIMUM NUMBER OF ALLOWABLE POINTS CONSISTENT  
17    WITH THIS SUBDIVISION AND MULTIPLYING SUCH FIGURE BY ONE HUNDRED.  
18    S 2. In order to effectuate the provisions of section one of this act,  
19    the commissioner of education is hereby authorized and directed to apply  
20    for and obtain any federal approvals or waivers he or she deems neces-

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

LBD14087-14-4

sary including, but not limited to, waivers to the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001.

S 3. Section 305 of the education law is amended by adding four new subdivisions 44, 45, 46 and 47 to read as follows:

44. THE COMMISSIONER SHALL PROVIDE THAT NO SCHOOL DISTRICT SHALL MAKE ANY STUDENT PROMOTION OR PLACEMENT DECISIONS BASED SOLELY OR PRIMARILY ON STUDENT PERFORMANCE ON THE STATE ADMINISTERED STANDARDIZED ENGLISH LANGUAGE ARTS AND MATHEMATICS ASSESSMENTS FOR GRADES THREE THROUGH EIGHT. HOWEVER, SCHOOL DISTRICTS MAY CONSIDER STUDENT PERFORMANCE ON SUCH STATE ASSESSMENTS WHEN MAKING STUDENT PROMOTION OR PLACEMENT DECISIONS PROVIDED THAT THE SCHOOL DISTRICT USE MULTIPLE MEASURES IN ADDITION TO SUCH ASSESSMENTS. IN ADDITION, THE COMMISSIONER SHALL REQUIRE EVERY SCHOOL DISTRICT TO ANNUALLY NOTIFY THE PARENTS AND PERSONS IN PARENTAL RELATION TO THE STUDENTS ATTENDING SUCH DISTRICT OF THE DISTRICT'S GRADE PROMOTION AND PLACEMENT POLICY ALONG WITH AN EXPLANATION OF HOW SUCH POLICY WAS DEVELOPED. SUCH NOTIFICATION MAY BE PROVIDED ON THE SCHOOL DISTRICT'S WEBSITE, IF ONE EXISTS, OR AS PART OF AN EXISTING INFORMATIONAL DOCUMENT THAT IS PROVIDED TO PARENTS AND PERSONS IN PARENTAL RELATION.

45. THE COMMISSIONER SHALL PROVIDE THAT NO SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES MAY REPORT, PLACE, OR INCLUDE ON A STUDENT'S PERMANENT RECORD OR TRANSCRIPT ANY STUDENT SCORE ON A STATE ADMINISTERED STANDARDIZED ENGLISH LANGUAGE ARTS AND MATHEMATICS ASSESSMENT FOR GRADES THREE THROUGH EIGHT. IN ADDITION, HE OR SHE SHALL PROVIDE THAT NO SCHOOL DISTRICT MAY SUBMIT, FOR ANY PURPOSE, STUDENT SCORES ON SUCH ASSESSMENTS AS PART OF AN OFFICIAL TRANSCRIPT TO ANY ENTITY EXCEPT TO THE DEPARTMENT OR TO PARENTS OR PERSONS IN PARENTAL RELATION TO THE STUDENT.

46. THE COMMISSIONER SHALL TAKE ACTIONS TO REDUCE FIELD TESTS FOR STUDENTS TAKING THE STATE ADMINISTERED STANDARDIZED ENGLISH LANGUAGE ARTS AND MATHEMATICS ASSESSMENTS FOR GRADES THREE THROUGH EIGHT AND TAKE ACTIONS TO PROVIDE AND MAKE AVAILABLE TO CLASSROOM TEACHERS AND SCHOOL DISTRICTS SIGNIFICANTLY MORE SAMPLE TEST QUESTIONS OF SUCH ASSESSMENTS; SUCH ACTIONS SHALL INCLUDE, BUT NOT BE LIMITED TO, THE PROCUREMENT, PRODUCTION, OR PRINTING OF AT A MINIMUM TWENTY DIFFERENT TEST FORMS FOR EACH SUCH ASSESSMENT.

47. THE COMMISSIONER SHALL, IN ORDER TO ASSIST SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE EDUCATIONAL SERVICES IN DEVELOPING A COMMON CORE TRAINING PROGRAM FOR TEACHERS AND PRINCIPALS PURSUANT TO SECTION THREE THOUSAND THIRTY-SIX OF THIS CHAPTER, DEVELOP PROFESSIONAL DEVELOPMENT TOOLS, RESOURCES AND MATERIALS THAT SCHOOL DISTRICTS, BOARDS OF COOPERATIVE EDUCATIONAL SERVICES, TEACHERS AND PRINCIPALS MAY UTILIZE. SUCH TOOLS, RESOURCES AND MATERIALS SHALL BE DEVELOPED IN CONSULTATION WITH TEACHERS, PRINCIPALS AND OTHER STAKEHOLDERS WHO THE COMMISSIONER DEEMS NECESSARY AND SHALL BE DEVELOPED IN A MANNER THAT WILL ASSIST TEACHERS AND PRINCIPALS IN ADVANCING THEIR PROFESSIONAL DEVELOPMENT AND TEACHING SKILLS RELATED TO THE COMMON CORE LEARNING STANDARDS ADOPTED BY THE BOARD OF REGENTS. IN ADDITION, SUCH TOOLS, RESOURCES AND MATERIALS SHALL BE DEVELOPED BY THE DEPARTMENT FOR EVERY MANDATORY SUBJECT AND GRADE LEVEL FOR WHICH THE BOARD OF REGENTS HAS ADOPTED THE COMMON CORE LEARNING STANDARDS AND SHALL BE AVAILABLE BY JULY FIRST, TWO THOUSAND FOURTEEN.

S 4. In order to implement the provisions of subdivision 46 of section 305 of the education law, as added by section three of this act, relating to reducing field tests for students and providing more sample tests

1 for teachers and school districts, the commissioner of education shall  
2 use a portion of the \$348,323,000 grant funds received from the United  
3 States Secretary of Education under the state fiscal stabilization fund  
4 of the American Recovery and Reinvestment Act of 2009.

5 S 5. Paragraph k of subdivision 2 of section 3012-c of the education  
6 law, as added by chapter 21 of the laws of 2012, is amended to read as  
7 follows:

8 k. Notwithstanding any other provision of law, rule or regulation to  
9 the contrary, by July first, two thousand twelve, the governing body of  
10 each school district and board of cooperative educational services shall  
11 adopt a plan, on a form prescribed by the commissioner, for the annual  
12 professional performance review of all of its classroom teachers and  
13 building principals in accordance with the requirements of this section  
14 and the regulations of the commissioner, and shall submit such plan to  
15 the commissioner for approval. The plan may be an annual or multi-year  
16 plan, for the annual professional performance review of all of its  
17 classroom teachers and building principals. The commissioner shall  
18 approve or reject the plan by September first, two thousand twelve, or  
19 as soon as practicable thereafter. THE COMMISSIONER SHALL REJECT ANY  
20 ANNUAL PROFESSIONAL PERFORMANCE REVIEW PLANS THAT PROVIDE FOR THE ADMIN-  
21 ISTRATION OF STANDARDIZED STATE ASSESSMENTS, OR VENDOR OR THIRD PARTY  
22 DEVELOPED ASSESSMENTS OR OTHER COMPARABLE STANDARDIZED ASSESSMENTS TO  
23 STUDENTS IN GRADES KINDERGARTEN THROUGH SECOND GRADE THAT ARE NOT BEING  
24 USED FOR DIAGNOSTIC PURPOSES OR ARE OTHERWISE REQUIRED TO BE ADMINIS-  
25 TERED BY FEDERAL LAW. The commissioner may ALSO reject a plan that does  
26 not rigorously adhere to the provisions of this section and the regu-  
27 lations of the commissioner. Should any plan be rejected, the commis-  
28 sioner shall describe each deficiency in the submitted plan and direct  
29 that each such deficiency be resolved through collective bargaining to  
30 the extent required under article fourteen of the civil service law. If  
31 any material changes are made to the plan, the school district or board  
32 of cooperative educational services must submit the material changes, on  
33 a form prescribed by the commissioner, to the commissioner for approval.  
34 To the extent that by July first, two thousand twelve, or by July first  
35 of any subsequent year, if all the terms of the plan have not been  
36 finalized as a result of unresolved collective bargaining negotiations,  
37 the entire plan shall be submitted to the commissioner upon resolution  
38 of all of its terms, consistent with article fourteen of the civil  
39 service law.

40 S 6. Subdivision 2 of section 3012-c of the education law is amended  
41 by adding a new paragraph k-1 to read as follows:

42 K-1. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE  
43 CONTRARY, NO ANNUAL PROFESSIONAL PERFORMANCE PLAN SHALL PROVIDE FOR THE  
44 ADMINISTRATION OF STANDARDIZED STATE ASSESSMENTS OR THIRD PARTY ASSESS-  
45 MENTS, TO STUDENTS IN KINDERGARTEN THROUGH GRADE TWO THAT ARE NOT BEING  
46 USED FOR DIAGNOSTIC PURPOSES OR ARE REQUIRED TO BE ADMINISTERED BY  
47 FEDERAL LAW; EXCEPT THAT NOTHING IN THIS SUBDIVISION SHALL PRECLUDE THE  
48 USE OF SCHOOL-WIDE MEASURES USING EITHER STATE ASSESSMENTS OR DEPARTMENT  
49 APPROVED ASSESSMENTS THAT ARE ADMINISTERED TO STUDENTS IN HIGHER GRADES  
50 IN THE SCHOOL, IF OTHERWISE ALLOWED UNDER THIS SECTION OR THE REGU-  
51 LATIONS OF THE COMMISSIONER. FOR PURPOSES OF THIS SECTION, THE ONLY  
52 ALLOWABLE ASSESSMENTS TO BE ADMINISTERED TO STUDENTS IN KINDERGARTEN  
53 THROUGH GRADE TWO SHALL BE LOCALLY DEVELOPED ASSESSMENTS OR ASSESSMENTS  
54 USED FOR DIAGNOSTIC PURPOSES OR THAT ARE OTHERWISE REQUIRED TO BE ADMIN-  
55 ISTERED BY FEDERAL LAW. FOR PURPOSES OF THIS SECTION, "LOCALLY DEVELOPED  
56 ASSESSMENTS" SHALL MEAN DISTRICT, BOCES OR REGIONALLY DEVELOPED ASSESS-

MENTS THAT ARE RIGOROUS AND COMPARABLE ACROSS CLASSROOMS AND MAY INCLUDE LOCALLY DEVELOPED PERFORMANCE ASSESSMENTS.

S 7. The opening paragraph of subparagraph 2 of paragraph f of subdivision 2 of section 3012-c of the education law, as amended by chapter 21 of the laws of 2012, is amended to read as follows:

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

S 8. The opening paragraph of subparagraph 2 of paragraph g of subdivision 2 of section 3012-c of the education law, as amended by chapter 21 of the laws of 2012, is amended to read as follows:

One or more of the following types of locally selected measures of student achievement or growth may be used for the evaluation of classroom teachers, PROVIDED THAT NO SUCH MEASURES SHALL INCLUDE SCORES FROM STUDENTS IN KINDERGARTEN THROUGH SECOND GRADE ON STATE ASSESSMENTS OR OTHER STANDARDIZED STUDENT ASSESSMENTS, EXCEPT SCORES ON LOCALLY DEVELOPED ASSESSMENTS AS DEFINED IN PARAGRAPH K-1 OF THIS SUBDIVISION:

S 9. Subdivision 15 of section 3602-e of the education law, as amended by section 19 of part B of chapter 57 of the laws of 2007, is amended to read as follows:

15. The commissioner shall also provide for a system for evaluation and assessment of the prekindergarten programs which have been implemented to determine the short and long-term success, outcomes and effects of the programs based on relevant and measurable performance standards. THE COMMISSIONER SHALL PROHIBIT THE ADMINISTRATION OF STATE ADMINISTERED STANDARDIZED STUDENT ASSESSMENTS IN UNIVERSAL, SCHOOL DISTRICT SPONSORED OR SCHOOL DISTRICT-RUN PREKINDERGARTEN PROGRAMS, AND SUCH PREKINDERGARTEN PROGRAMS SHALL NOT ADMINISTER ANY VENDOR OR THIRD PARTY DEVELOPED STANDARDIZED STUDENT ASSESSMENTS, OR OTHER COMPARABLE STANDARDIZED STUDENT ASSESSMENTS TO STUDENTS ENROLLED IN SUCH PREKINDERGARTEN THAT ARE NOT BEING USED FOR A DIAGNOSTIC PURPOSE.

S 10. Subdivision 2 of section 3012-c of the education law is amended by adding a new paragraph k-2 to read as follows:

K-2. (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE CONTRARY, IF MATERIAL CHANGES ARE SUBMITTED FOR AN APPROVED PLAN PURSUANT TO PARAGRAPH K OF THIS SUBDIVISION THAT SOLELY RELATE TO THE ELIMINATION OF UNNECESSARY STUDENT ASSESSMENTS, THE COMMISSIONER SHALL EXPEDITE HIS OR HER REVIEW OF SUCH MATERIAL CHANGES AND SOLELY REVIEW THOSE SECTIONS OF THE PLAN THAT RELATE TO THE ELIMINATED STUDENT ASSESSMENTS TO ENSURE COMPLIANCE WITH THIS SECTION AND THE REGULATIONS OF THE COMMISSIONER, PROVIDED THAT THE GOVERNING BODY OF SUCH SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES PROVIDE A WRITTEN EXPLANATION OF THE MATERIAL CHANGES SUBMITTED FOR APPROVAL, ON A FORM PRESCRIBED BY THE COMMISSIONER, AND CERTIFY THAT NO OTHER MATERIAL CHANGES HAVE BEEN MADE TO ANY OTHER SECTIONS OF THE CURRENTLY APPROVED PLAN.

(2) THE COMMISSIONER SHALL PROVIDE GUIDANCE AND ADVICE TO EVERY SCHOOL DISTRICT AND BOARD OF COOPERATIVE EDUCATIONAL SERVICES IN ORDER TO ASSIST SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE EDUCATIONAL SERVICES TO REDUCE AND ELIMINATE TRADITIONAL STANDARDIZED STUDENT ASSESSMENTS THAT ARE NOT NECESSARY TO COMPLY WITH THIS SECTION. SUCH GUIDANCE AND

1 ADVICE SHALL BE PROVIDED NO LATER THAN JULY FIRST, TWO THOUSAND FOUR-  
2 TEEN.

3 S 11. The education law is amended by adding a new section 3036 to  
4 read as follows:

5 S 3036. COMMON CORE TRAINING PROGRAM. SCHOOL DISTRICTS AND BOARDS OF  
6 COOPERATIVE EDUCATIONAL SERVICES SHALL CONSIDER THE ADOPTION AND IMPE-  
7 MENTATION OF A COMMON CORE TRAINING PROGRAM FOR TEACHERS AND PRINCIPALS.  
8 SUCH PROGRAM MAY BE PART OF A SCHOOL DISTRICT'S OR BOARD OF COOPERATIVE  
9 EDUCATIONAL SERVICES' PROFESSIONAL DEVELOPMENT PLAN. SUCH PROGRAM SHALL  
10 BE DEVELOPED IN CONSULTATION WITH TEACHERS, PRINCIPALS, AND THE DEPART-  
11 MENT; SUCH PROGRAM SHALL BE DESIGNED TO, AND INCLUDE MEASURES AND  
12 ACTIONS TO, ASSIST TEACHERS AND PRINCIPALS WITH PROFESSIONAL DEVELOPMENT  
13 AND TEACHING SKILLS RELATED TO THE COMMON CORE LEARNING STANDARDS  
14 ADOPTED BY THE BOARD OF REGENTS.

15 S 12. 1. Prior to July 1, 2015, the commissioner of education and the  
16 state education department are hereby prohibited from providing any  
17 personally identifiable information or de-identifiable student informa-  
18 tion to any third party vendor pursuant to any contract or memorandum of  
19 understanding for the purpose of collecting, storing and/or organizing  
20 student data or information in order to provide access to such data or  
21 information to third party vendors operating data dashboard solutions.

22 2. Definitions. As used in this section the following terms shall have  
23 the following meanings:

24 a. "Third party vendor" shall mean any person or entity other than a  
25 school district, board of cooperative educational services (BOCES),  
26 institutions providing higher education as such term is defined in  
27 subdivision 8 of section 2 of the education law or the state education  
28 department.

29 b. "Data dashboard solutions" shall mean third-party electronic data  
30 system or hosted software application or applications designed to  
31 provide educators, students and their families with timely and relevant  
32 student data and information that support instruction and student learn-  
33 ing and is part of an educational data portal, which the state education  
34 department, BOCES, school districts, students and/or their families  
35 participate in.

36 c. "Personally identifiable information" shall have the same meaning  
37 as such term is defined in section 99.3 of title 34 of the code of  
38 federal regulations implementing the Family Education Rights and Privacy  
39 Act, as such federal law and regulations are from time to time amended.

40 d. "De-identifiable student information" shall mean a collection of  
41 data or information that has been altered with the goal of making the  
42 student or students associated with such data or information permanently  
43 unknowable.

44 S 13. The education law is amended by adding a new section 2-c to read  
45 as follows:

46 S 2-C. RELEASE OF PERSONALLY IDENTIFIABLE INFORMATION. 1. DEFI-  
47 NITIONS. AS USED IN THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE  
48 FOLLOWING MEANINGS:

49 A. "PERSONALLY IDENTIFIABLE INFORMATION" SHALL HAVE THE SAME MEANING  
50 AS SUCH TERM IS DEFINED IN SECTION 99.3 OF TITLE 34 OF THE CODE OF  
51 FEDERAL REGULATIONS IMPLEMENTING THE FAMILY EDUCATION RIGHTS AND PRIVACY  
52 ACT, AS SUCH FEDERAL LAW AND REGULATIONS ARE FROM TIME TO TIME AMENDED.

53 B. "BIOMETRIC RECORD" SHALL HAVE THE SAME MEANING AS SUCH TERM IS  
54 DEFINED IN SECTION 99.3 OF TITLE 34 OF THE CODE OF FEDERAL REGULATIONS  
55 IMPLEMENTING THE FAMILY EDUCATION RIGHTS AND PRIVACY ACT, AS SUCH FEDER-  
56 AL LAW AND REGULATIONS ARE FROM TIME TO TIME AMENDED.

1 C. "SCHOOL" SHALL MEAN ANY PUBLIC ELEMENTARY OR SECONDARY SCHOOL,  
2 BOARD OF COOPERATIVE EDUCATIONAL SERVICES, CHARTER SCHOOL, SPECIAL ACT  
3 SCHOOL DISTRICT, PUBLIC SCHOOL KINDERGARTEN PROGRAM, UNIVERSAL PRE-KIN-  
4 DERGARTEN PROGRAMS AUTHORIZED PURSUANT TO SECTION THIRTY-SIX HUNDRED  
5 TWO-E OF THIS CHAPTER, PUBLICLY FUNDED PRE-KINDERGARTEN PROGRAMS,  
6 APPROVED PRESCHOOL SPECIAL EDUCATION PROGRAMS PURSUANT TO SECTION  
7 FORTY-FOUR HUNDRED TEN OF THIS CHAPTER, APPROVED PRIVATE SCHOOL FOR THE  
8 EDUCATION OF STUDENTS WITH DISABILITIES AND A STATE SUPPORTED SCHOOL  
9 SUBJECT TO THE PROVISIONS OF ARTICLE EIGHTY-SEVEN OR EIGHTY-EIGHT OF  
10 THIS CHAPTER.

11 D. "STUDENT" SHALL MEAN ANY PERSON ATTENDING A SCHOOL IDENTIFIED IN  
12 PARAGRAPH C OF THIS SUBDIVISION.

13 E. "THIRD PARTY" SHALL MEAN ANY PERSON OR ENTITY OTHER THAN A SCHOOL  
14 DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES, INSTITUTION OF  
15 HIGHER EDUCATION, SCHOOL AS DEFINED IN PARAGRAPH C OF THIS SUBDIVISION  
16 OR THE DEPARTMENT.

17 2. A PARENT OF A STUDENT, A PERSON IN PARENTAL RELATION TO A STUDENT,  
18 OR A STUDENT EIGHTEEN YEARS OF AGE OR OLDER MAY REQUEST THAT SUCH  
19 STUDENT'S PERSONALLY IDENTIFIABLE INFORMATION AND/OR SUCH STUDENT'S  
20 BIOMETRIC RECORD NOT BE DISCLOSED TO ANY THIRD PARTY. THE DEPARTMENT  
21 AND/OR ANY SCHOOL THAT RECEIVES SUCH REQUEST SHALL BE PROHIBITED FROM  
22 DISCLOSING SUCH INFORMATION TO ANY THIRD PARTY UNLESS SUCH DISCLOSURE IS  
23 REQUIRED BY LAW, PURSUANT TO A COURT ORDER OR SUBPOENA, FOR THE PURPOSE  
24 OF A STATE OR FEDERAL AUDIT OR EVALUATION TO AUTHORIZED REPRESENTATIVES  
25 OF ENTITIES IDENTIFIED IN SECTION 99.31 (A)(3) OF TITLE 34 OF THE CODE  
26 OF FEDERAL REGULATIONS IMPLEMENTING THE FAMILY EDUCATION RIGHTS AND  
27 PRIVACY ACT, OR IS NECESSARY DUE TO A HEALTH OR SAFETY EMERGENCY.

28 3. THE DEPARTMENT SHALL DEVELOP A FORM THAT SHALL BE USED FOR REQUESTS  
29 MADE PURSUANT TO SUBDIVISION TWO OF THIS SECTION. SUCH FORM SHALL BE  
30 MADE PUBLICLY AVAILABLE AND SHALL ALLOW SUCH INDIVIDUALS THE OPTION TO  
31 OPT-OUT OF DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION AND BIOME-  
32 TRIC RECORDS TO ANY THIRD PARTY OR TO CERTAIN TYPES OF THIRD PARTIES.  
33 THE DEPARTMENT IS AUTHORIZED TO IDENTIFY A LIST OF TYPES OF THIRD  
34 PARTIES THAT INDIVIDUALS MAY OPT-OUT OF DISCLOSURE OF SUCH INFORMATION  
35 AND RECORDS AND SUCH INDIVIDUALS MAY OPT-OUT OF DISCLOSURE OF SUCH  
36 INFORMATION AND RECORDS TO ANY TYPE AND/OR ALL OF THE LISTED THIRD  
37 PARTIES. SUCH LIST DEVELOPED BY THE DEPARTMENT SHALL NOT REQUIRE THE  
38 NAMES OF SUCH THIRD PARTIES TO BE LISTED. SUCH LIST MAY IDENTIFY THE  
39 TYPES OF SERVICES SUCH THIRD PARTIES PROVIDE.

40 4. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO THE SHARING OF  
41 PERSONALLY IDENTIFIABLE INFORMATION AND BIOMETRIC RECORDS BY CHARTER  
42 SCHOOLS TO A NOT-FOR-PROFIT CORPORATION OR A FOR-PROFIT BUSINESS OR  
43 CORPORATE ENTITY THAT THE CHARTER SCHOOL WAS FORMED IN CONJUNCTION WITH.

44 5. SCHOOLS AND THE DEPARTMENT MAY NOT UNDER ANY CIRCUMSTANCE DISCLOSE  
45 PERSONALLY IDENTIFIABLE INFORMATION OR BIOMETRIC RECORDS TO ANY THIRD  
46 PARTY UNLESS SUCH THIRD PARTY HAS AGREED IN WRITING TO:

47 A. PROVIDE THE DEPARTMENT OR THE CONTRACTING SCHOOL WITH A BREACH  
48 REMEDIATION PLAN ACCEPTABLE TO THE DEPARTMENT OR THE SCHOOL;

49 B. REPORT ALL SUSPECTED SECURITY BREACHES TO THE DEPARTMENT OR  
50 CONTRACTING SCHOOL AS SOON AS POSSIBLE BUT NOT LATER THAN FORTY-EIGHT  
51 HOURS AFTER SUCH SUSPECTED BREACH WAS KNOWN OR WOULD HAVE BEEN KNOWN BY  
52 EXERCISING REASONABLE DUE DILIGENCE; AND

53 C. REPORT ALL ACTUAL SECURITY BREACHES TO THE DEPARTMENT OR CONTRACT-  
54 ING SCHOOL AS SOON AS POSSIBLE, BUT NOT LATER THAN TWENTY-FOUR HOURS  
55 AFTER SUCH ACTUAL BREACH WAS KNOWN OR WOULD HAVE BEEN KNOWN BY EXERCIS-  
56 ING REASONABLE DUE DILIGENCE.

1 S 14. 1. The commissioner of education shall evaluate the effective-  
2 ness of the implementation of the common core learning standards as  
3 adopted by the board of regents on the education of students with disa-  
4 bilities, English language learners and students with limited English  
5 proficiency. Such study shall evaluate whether the support services and  
6 instruction specifically created for the education of students with  
7 disabilities, English language learners and students with limited  
8 English proficiency are maintained with the adoption of the common core  
9 learning standards. The commissioner of education shall also study  
10 whether school districts are providing the testing accommodations speci-  
11 fied in individualized education programs, section 504 plans pursuant to  
12 the federal rehabilitation act of 1973 or any other official document  
13 for a student that prescribes required testing accommodations. The  
14 commissioner of education shall consult with stakeholders through the  
15 commissioner of education's advisory panel for special education  
16 services and English language learners stakeholders groups.

17 2. Upon completion of the study pursuant to subdivision 1 of this  
18 section, the commissioner of education shall report the results of such  
19 study to the governor, the temporary president of the senate, the speak-  
20 er of the assembly, and the chairs of the senate and assembly committees  
21 on education on or before December 1, 2014.

22 S 15. The commissioner of education is authorized to and shall promul-  
23 gate any and all rules and regulations and take any other measures  
24 necessary to implement the provisions of this act.

25 S 16. This act shall take effect immediately, provided that:

26 1. Subdivision 44 of section 305 of the education law as added by  
27 section three of this act shall take effect July 1, 2014;

28 2. Section one of this act shall expire and be deemed repealed if any  
29 necessary federal approvals or waivers relating to section one and  
30 section two of this act have been denied provided that the commissioner  
31 of education shall notify the legislative bill drafting commission upon  
32 such occurrence in order that the commission may maintain an accurate  
33 and timely effective data base of the official text of the laws of the  
34 state of New York in furtherance of effectuating the provisions of  
35 section 44 of the legislative law and section 70-b of the public offi-  
36 cers law;

37 3. The provisions of sections five, six, seven and eight of this act  
38 shall not apply to any annual professional performance review agreement  
39 entered into pursuant to a collective bargaining agreement prior to the  
40 effective date of such sections, which shall remain in effect in accord-  
41 ance with paragraph 1 of subdivision 2 of section 3012-c of the educa-  
42 tion law until a subsequent plan is agreed to by the parties and  
43 approved by the commissioner of education in accordance with section  
44 3012-c of the education law;

45 4. The provisions of section eleven of this act shall take effect  
46 August 1, 2014; and

47 5. The provisions of section thirteen of this act shall take effect on  
48 the ninetieth day after it shall have become a law.