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

4210

2015-2016 Regular Sessions

I N S E N A T E

March 9, 2015

Introduced by COMMITTEE ON RULES -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the education law, in relation to admission requirements for graduate-level teacher education programs, institution deregistration and suspension, teacher registration and continuing teacher education requirements (Subpart A); intentionally omitted (Subpart B); to amend the education law, in relation to the appointment of teachers, principals, administrators, supervisors and all other members of the teaching and supervising staff of school districts (Subpart C); to amend the education law, in relation to takeover and restructuring of failing school districts (Subpart D); to amend the education law, in relation to disciplinary procedures for ineffective teaching or performance by a building principal or teacher (Subpart E); and to amend the education law, in relation to charter schools (Subpart F) (Part A); to amend the education law, in relation to annual professional performance reviews for classroom teachers and building principals (Part B); Intentionally Omitted (Part C); and Intentionally Omitted (Part D)

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

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2015-2016 state fiscal year. Each component is wholly contained within a Part identified as Parts A through D. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference 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 Part in which it is found. Section three of this act sets forth the general effective date of this act.

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

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PART A

Section 1. This act enacts into law components of legislation which are necessary to implement the provisions relating to the prosecution of misconduct by public officials. Each component is wholly contained within a Subpart identified as Subparts A through F. The effective date for each particular provision contained within such Subpart is set forth in the last section of such Subpart. Any provision in any section contained within a Subpart, including the effective date of the Subpart, which makes a reference 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 three of this act sets forth the general effective date of this act.

SUBPART A

Section 1. The education law is amended by adding a new section 210-a to read as follows:

S 210-A. ADMISSION REQUIREMENTS FOR GRADUATE-LEVEL TEACHER EDUCATION PROGRAMS. EACH INSTITUTION REGISTERED BY THE DEPARTMENT WITH GRADUATE-LEVEL TEACHER EDUCATION PROGRAMS SHALL ADOPT RIGOROUS SELECTION CRITERIA GEARED TO PREDICTING A CANDIDATE'S ACADEMIC SUCCESS IN ITS PROGRAM, INCLUDING BUT NOT LIMITED TO, A MINIMUM SCORE ON THE GRADUATE RECORD EXAMINATION AND/OR A SUBSTANTIALLY EQUIVALENT ADMISSION EXAMINATION, AS DETERMINED BY THE INSTITUTION, AND ACHIEVEMENT OF A CUMULATIVE GRADE POINT AVERAGE OF 3.0 OR HIGHER IN THE CANDIDATE'S UNDERGRADUATE PROGRAM.

S 2. The education law is amended by adding a new section 210-b to read as follows:

S 210-B. INSTITUTION DEREGISTRATION AND SUSPENSION. 1. THE DEPARTMENT SHALL DE-REGISTER AND SUSPEND THE OPERATION OF AN INSTITUTION IF FOR THREE CONSECUTIVE ACADEMIC YEARS, FEWER THAN FIFTY PERCENT OF ITS STUDENTS PASS EACH EXAMINATION THAT THEY HAVE TAKEN THAT IS REQUIRED FOR CERTIFICATION. PROVIDED, HOWEVER, THE INSTITUTION MAY BE PERMITTED TO CONTINUE OPERATIONS IF THE INSTITUTION MAKES A WRITTEN REQUEST TO THE DEPARTMENT TO BE PERMITTED TO CONTINUE OPERATIONS AND THE COMMISSIONER GRANTS SUCH A REQUEST AND IN WRITING STATES SPECIFIC REASONS FOR ALLOWING THE INSTITUTION TO CONTINUE OPERATIONS. FOR PURPOSES OF THIS PARAGRAPH, STUDENTS WHO HAVE SATISFACTORILY COMPLETED THE INSTITUTION'S PROGRAM SHALL MEAN STUDENTS WHO HAVE MET EACH EDUCATIONAL REQUIREMENT OF THE PROGRAM, EXCLUDING ANY INSTITUTIONAL REQUIREMENT THAT THE STUDENT PASS EACH REQUIRED NEW YORK STATE TEACHER CERTIFICATION EXAMINATION FOR A TEACHING CERTIFICATE AND/OR SCHOOL BUILDING LEADER EXAMINATION FOR A SCHOOL BUILDING LEADER CERTIFICATE IN ORDER TO COMPLETE THE PROGRAM. STUDENTS SATISFACTORILY MEETING EACH EDUCATIONAL REQUIREMENT MAY INCLUDE STUDENTS WHO EARN A DEGREE OR STUDENTS WHO COMPLETE EACH EDUCATIONAL REQUIREMENT WITHOUT EARNING A DEGREE. WHEN MAKING SUCH A DETERMINATION, THE DEPARTMENT SHALL CONSIDER THE PERFORMANCE ON EACH CERTIFICATION EXAMINATION OF THOSE STUDENTS COMPLETING AN EXAMINATION NOT MORE THAN THREE YEARS BEFORE THE END OF THE ACADEMIC YEAR IN WHICH THE PROGRAM IS COMPLETED OR NOT LATER THAN THE SEPTEMBER THIRTIETH FOLLOWING THE END OF SUCH ACADEMIC YEAR, WHERE ACADEMIC YEAR IS DEFINED AS JULY FIRST THROUGH JUNE THIRTIETH, AND SHALL CONSIDER ONLY THE HIGHEST SCORE OF INDIVIDUALS TAKING A TEST MORE THAN ONCE.

2. THE INSTITUTION MAY SUBMIT AN APPEAL AS PRESCRIBED BY THE COMMISSIONER IN REGULATIONS. A DE-REGISTERED INSTITUTION SHALL CEASE OPER-

ATIONS AND SHALL NOT EDUCATE ANY STUDENTS WHILE AWAITING THE COMMISSIONER'S DECISION ON THEIR APPLICATION FOR RE-REGISTRATION.

3. THE DEPARTMENT MAY ALSO, AS PRESCRIBED BY THE COMMISSIONER IN REGULATIONS, CONDUCT EXPEDITED REGISTRATION REVIEWS FOR INSTITUTIONS THAT HAVE DEMONSTRATED POOR PERFORMANCE ON STUDENT OUTCOMES.

S 3. Section 3006 of the education law is amended by adding a new subdivision 3 to read as follows:

3. REGISTRATION. A. COMMENCING WITH THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR, ANY HOLDER OF A TEACHING CERTIFICATE IN THE CLASSROOM TEACHING SERVICE, TEACHING ASSISTANT CERTIFICATE, OR EDUCATIONAL LEADERSHIP CERTIFICATE THAT IS VALID FOR LIFE AS PRESCRIBED BY THE COMMISSIONER IN REGULATIONS SHALL BE REQUIRED TO REGISTER WITH THE DEPARTMENT EVERY FIVE YEARS IN ACCORDANCE WITH REGULATIONS OF THE COMMISSIONER. SUCH REGULATIONS SHALL PRESCRIBE THE DATE OR DATES BY WHICH APPLICATIONS FOR INITIAL REGISTRATION MUST BE SUBMITTED AND MAY PROVIDE FOR STAGGERED INITIAL REGISTRATION AND/OR ROLLING RE-REGISTRATION SO THAT RE-REGISTRATIONS ARE DISTRIBUTED AS EQUALLY AS POSSIBLE THROUGHOUT THE YEAR.

B. THE DEPARTMENT SHALL POST AN APPLICATION FOR REGISTRATION ON ITS WEBSITE. AN APPLICATION FOR REGISTRATION AND THE REQUIRED REGISTRATION FEE SHALL BE SUBMITTED TOGETHER WITH OR AS PART OF THE APPLICATION FOR A REGISTRATION CERTIFICATE. A PERSON INITIALLY CERTIFIED OR RESUMING PRACTICE AFTER A LAPSE IN REGISTRATION DURING THE LAST TWO YEARS OF A FIVE-YEAR REGISTRATION PERIOD SHALL RECEIVE A PRORATED REFUND OF ONE-FIFTH OF THE TOTAL REGISTRATION FEE FOR EACH FULL YEAR OF THE REGISTRATION PERIOD THAT ELAPSED PRIOR TO THE DATE OF REGISTRATION. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE DEPARTMENT SHALL RENEW THE REGISTRATION OF EACH CERTIFICATE HOLDER UPON RECEIPT OF A PROPER APPLICATION, ON A FORM PRESCRIBED BY THE DEPARTMENT, AND THE REGISTRATION FEE. ANY CERTIFICATE HOLDER WHO FAILS TO REGISTER BY THE BEGINNING OF THE APPROPRIATE REGISTRATION PERIOD SHALL BE REQUIRED TO PAY AN ADDITIONAL FEE FOR THE LATE FILING OF TEN DOLLARS FOR EACH MONTH THAT REGISTRATION HAS BEEN DELAYED. NO LICENSEE RESUMING PRACTICE AFTER A LAPSE OF REGISTRATION SHALL BE PERMITTED TO PRACTICE WITHOUT ACTUAL POSSESSION OF THE REGISTRATION CERTIFICATE.

C. ANY CERTIFICATE HOLDER WHO IS NOT ENGAGING IN THE PRACTICE OF HIS OR HER PROFESSION IN THIS STATE AND DOES NOT DESIRE TO REGISTER SHALL SO ADVISE THE DEPARTMENT. SUCH CERTIFICATE HOLDER SHALL NOT BE REQUIRED TO PAY AN ADDITIONAL FEE FOR FAILURE TO REGISTER AT THE BEGINNING OF THE REGISTRATION PERIOD.

D. CERTIFICATE HOLDERS SHALL NOTIFY THE DEPARTMENT OF ANY CHANGE OF NAME OR MAILING ADDRESS WITHIN THIRTY DAYS OF SUCH CHANGE. FAILURE TO REGISTER OR PROVIDE SUCH NOTICE WITHIN ONE HUNDRED EIGHTY DAYS OF SUCH CHANGE SHALL CONSTITUTE GROUNDS FOR MORAL CHARACTER REVIEW UNDER SUBDIVISION SEVEN OF SECTION THREE HUNDRED FIVE OF THIS TITLE.

E. THE FEE FOR REPLACEMENT OF A LOST REGISTRATION CERTIFICATE OR LICENSE OR FOR REGISTRATION OF AN ADDITIONAL OFFICE SHALL BE TEN DOLLARS.

F. AN ADDITIONAL FEE OF TWENTY-FIVE DOLLARS SHALL BE CHARGED FOR THE REGISTRATION OF ANY APPLICANT WHOSE CHECK HAS BEEN DISHONORED, OR IN THE CASE OF A CREDIT CARD PAYMENT, WHERE THE PAYMENT IS CONTESTED AND IS NOT HONORED BY THE CREDIT CARD COMPANY.

S 4. The education law is amended by adding a new section 3006-a to read as follows:

S 3006-A. REGISTRATION AND CONTINUING TEACHER EDUCATION REQUIREMENTS FOR HOLDERS OF PROFESSIONAL CERTIFICATES IN THE CLASSROOM TEACHING

SERVICE, HOLDERS OF LEVEL III TEACHING ASSISTANT CERTIFICATES, HOLDERS OF PROFESSIONAL CERTIFICATES IN THE EDUCATIONAL LEADERSHIP SERVICE. 1. A. EACH HOLDER OF A PROFESSIONAL CERTIFICATE IN THE CLASSROOM TEACHING SERVICE, HOLDER OF A LEVEL III TEACHING ASSISTANT CERTIFICATE AND HOLDER OF A PROFESSIONAL CERTIFICATE IN THE EDUCATIONAL LEADERSHIP SERVICE SHALL BE REQUIRED TO REGISTER EVERY FIVE YEARS WITH THE DEPARTMENT TO PRACTICE IN THE STATE AND SHALL COMPLY WITH THE PROVISIONS OF THE CONTINUING TEACHER EDUCATION REQUIREMENTS SET FORTH IN THIS SECTION.

B. ANY OF THE CERTIFIED INDIVIDUALS DESCRIBED IN PARAGRAPH A OF THIS SECTION WHO DO NOT SATISFY THE CONTINUING TEACHER EDUCATION REQUIREMENTS SHALL NOT PRACTICE UNTIL THEY HAVE MET SUCH REQUIREMENTS, HAVE PAID ALL APPLICABLE FEES, AND HAVE BEEN ISSUED A REGISTRATION OR CONDITIONAL REGISTRATION CERTIFICATE.

C. HOLDERS OF A PROFESSIONAL CERTIFICATE IN THE CLASSROOM TEACHING SERVICE, HOLDERS OF A LEVEL III TEACHING ASSISTANCE CERTIFICATE AND HOLDERS OF A PROFESSIONAL CERTIFICATE IN THE EDUCATIONAL LEADERSHIP SERVICE AND ANY OTHER CERTIFIED INDIVIDUAL REQUIRED BY THE COMMISSIONER TO REGISTER TRIENNIALLY SHALL BE EXEMPT FROM THE CONTINUING TEACHER EDUCATION REQUIREMENT FOR THE FIVE-YEAR REGISTRATION PERIOD DURING WHICH THEY ARE FIRST LICENSED BY THE DEPARTMENT. IN ACCORDANCE WITH THE INTENT OF THIS SECTION, ADJUSTMENTS TO THE CONTINUING TEACHER EDUCATION REQUIREMENT MAY BE GRANTED BY THE DEPARTMENT FOR REASONS OF HEALTH CERTIFIED BY A PHYSICIAN, FOR EXTENDED ACTIVE DUTY WITH ARMED FORCES OF THE UNITED STATES, OR FOR OTHER GOOD CAUSE ACCEPTABLE TO THE DEPARTMENT WHICH MAY PREVENT COMPLIANCE.

D. CERTIFICATE HOLDERS WHO ARE NOT PRACTICING AS A TEACHER, TEACHING ASSISTANT OR EDUCATIONAL LEADER IN A SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES IN THIS STATE SHALL BE EXEMPT FROM THE CONTINUING TEACHER EDUCATION REQUIREMENT UPON THE FILING OF A WRITTEN STATEMENT WITH THE DEPARTMENT DECLARING SUCH STATUS. ANY HOLDER OF A PROFESSIONAL CERTIFICATE IN THE CLASSROOM TEACHING SERVICE, HOLDER OF A LEVEL III TEACHING ASSISTANT CERTIFICATE AND HOLDER OF A PROFESSIONAL CERTIFICATE IN THE EDUCATIONAL LEADERSHIP SERVICE WHO RESUMES PRACTICE DURING THE FIVE-YEAR REGISTRATION PERIOD SHALL NOTIFY THE DEPARTMENT PRIOR TO RESUMING PRACTICE AND SHALL PAY THE CURRENT CONTINUING TEACHER EDUCATION FEE AND SHALL MEET SUCH CONTINUING TEACHER EDUCATION REQUIREMENTS AS PRESCRIBED IN REGULATIONS OF THE COMMISSIONER.

2. A. DURING EACH FIVE-YEAR REGISTRATION PERIOD BEGINNING ON OR AFTER JULY FIRST, TWO THOUSAND FIFTEEN, AN APPLICANT FOR REGISTRATION SHALL SUCCESSFULLY COMPLETE A MINIMUM OF 100 HOURS OF CONTINUING TEACHER EDUCATION, AS DEFINED BY THE COMMISSIONER. THE DEPARTMENT SHALL ISSUE RIGOROUS STANDARDS FOR COURSES AND PROGRAMS THAT SHALL QUALIFY AS CONTINUING TEACHER EDUCATION PURSUANT TO THIS SECTION.

B. A CERTIFIED INDIVIDUAL WHO HAS NOT SATISFIED THE CONTINUING TEACHER EDUCATION REQUIREMENTS SHALL NOT BE ISSUED A FIVE-YEAR REGISTRATION CERTIFICATE BY THE DEPARTMENT AND SHALL NOT PRACTICE UNLESS AND UNTIL A REGISTRATION OR CONDITIONAL REGISTRATION CERTIFICATE IS ISSUED AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION. FOR PURPOSES OF THIS SUBDIVISION, "CONTINUING TEACHER EDUCATION REQUIREMENTS" SHALL MEAN FORMAL PROGRAMS OF LEARNING WHICH CONTRIBUTE TO GROWTH IN THE PROFESSIONAL KNOWLEDGE AND PROFESSIONAL COMPETENCE OF THE CERTIFICATE HOLDER WHICH MEET THE STANDARDS PRESCRIBED BY REGULATIONS OF THE COMMISSIONER. TO FULFILL THE CONTINUING TEACHER EDUCATION REQUIREMENT, PROGRAMS MUST BE TAKEN FROM SPONSORS APPROVED BY THE DEPARTMENT, PURSUANT TO THE REGULATIONS OF THE COMMISSIONER.

3. THE DEPARTMENT, IN ITS DISCRETION, MAY ISSUE A CONDITIONAL REGISTRATION TO A TEACHER, TEACHING ASSISTANT OR EDUCATIONAL LEADER IN A SCHOOL DISTRICT OR BOCES IN THIS STATE WHO FAILS TO MEET THE CONTINUING EDUCATION REQUIREMENTS ESTABLISHED IN SUBDIVISION TWO OF THIS SECTION BUT WHO AGREES TO MAKE UP ANY DEFICIENCIES AND TAKE ANY ADDITIONAL EDUCATION WHICH THE DEPARTMENT MAY REQUIRE. THE FEE FOR SUCH A CONDITIONAL REGISTRATION SHALL BE THE SAME AS, AND IN ADDITION TO, THE FEE FOR THE TRIENNIAL REGISTRATION. THE DURATION OF SUCH CONDITIONAL REGISTRATION SHALL BE DETERMINED BY THE DEPARTMENT. ANY HOLDER OF A PROFESSIONAL CERTIFICATE IN THE CLASSROOM TEACHING SERVICE, HOLDER OF A LEVEL III TEACHING ASSISTANT CERTIFICATE OR HOLDER OF A PROFESSIONAL CERTIFICATE IN THE EDUCATIONAL LEADERSHIP SERVICE AND ANY OTHER CERTIFIED INDIVIDUAL REQUIRED BY THE COMMISSIONER TO REGISTER TRIENNIALLY WHO IS NOTIFIED OF THE DENIAL OF REGISTRATION FOR FAILURE TO SUBMIT EVIDENCE, SATISFACTORY TO THE DEPARTMENT, OF REQUIRED CONTINUING EDUCATION AND WHO PRACTICES WITHOUT SUCH REGISTRATION, SHALL BE SUBJECT TO MORAL CHARACTER REVIEW UNDER SUBDIVISION SEVEN OF SECTION THREE HUNDRED FIVE OF THIS TITLE.

4. THE REGISTRATION FEE SHALL BE DETERMINED BY THE REGENTS, AND SHALL BE PAYABLE ON OR BEFORE THE FIRST DAY OF EACH TRIENNIAL REGISTRATION PERIOD.

S 5. This act shall take effect July 1, 2015, provided that the authority of the board of regents to adopt regulations necessary to implement the provisions of this act on such effective date shall take effect immediately.

SUBPART B

Intentionally omitted.

SUBPART C

Section 1. Paragraphs (a) and (b) of subdivision 1 of section 2509 of the education law, paragraph (a) as amended by chapter 551 of the laws of 1976, and paragraph (b) as amended by chapter 468 of the laws of 1975, are amended to read as follows:

(a) I. Teachers and all other members of the teaching staff[,] APPOINTED PRIOR TO JULY FIRST, TWO THOUSAND FIFTEEN AND authorized by section twenty-five hundred three of this article, shall be appointed by the board of education, upon the recommendation of the superintendent of schools, for a probationary period of three years, except that in the case of a teacher who has rendered satisfactory service as a regular substitute for a period of two years or as a seasonally licensed per session teacher of swimming in day schools who has served in that capacity for a period of two years and has been appointed to teach the same subject in day schools on an annual salary, the probationary period shall be limited to one year; provided, however, that in the case of a teacher who has been appointed on tenure in another school district within the state, the school district where currently employed, or a board of cooperative educational services, and who was not dismissed from such district or board as a result of charges brought pursuant to subdivision one of section three thousand twenty-a of this chapter, the probationary period shall not exceed two years. The service of a person appointed to any of such positions may be discontinued at any time during such probationary period, on the recommendation of the superintendent of schools, by a majority vote of the board of education. Each

person who is not to be recommended for appointment on tenure shall be so notified by the superintendent of schools in writing not later than sixty days immediately preceding the expiration of his probationary period.

II. NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR REGULATION TO THE CONTRARY, TEACHERS AND ALL OTHER MEMBERS OF THE TEACHING STAFF APPOINTED ON OR AFTER JULY FIRST, TWO THOUSAND FIFTEEN AND AUTHORIZED BY SECTION TWENTY-FIVE HUNDRED THREE OF THIS ARTICLE, SHALL BE APPOINTED BY THE BOARD OF EDUCATION, UPON THE RECOMMENDATION OF THE SUPERINTENDENT OF SCHOOLS, FOR A PROBATIONARY PERIOD OF FIVE YEARS, EXCEPT THAT IN THE CASE OF A TEACHER WHO HAS RENDERED SATISFACTORY SERVICE AS A REGULAR SUBSTITUTE FOR A PERIOD OF TWO YEARS OR AS A SEASONALLY LICENSED PER SESSION TEACHER OF SWIMMING IN DAY SCHOOLS WHO HAS SERVED IN THAT CAPACITY FOR A PERIOD OF TWO YEARS AND HAS BEEN APPOINTED TO TEACH THE SAME SUBJECT IN DAY SCHOOLS ON AN ANNUAL SALARY, THE TEACHER SHALL BE APPOINTED FOR A PROBATIONARY PERIOD OF THREE YEARS; PROVIDED, HOWEVER, THAT IN THE CASE OF A TEACHER WHO HAS BEEN APPOINTED ON TENURE IN ANOTHER SCHOOL DISTRICT WITHIN THE STATE, THE SCHOOL DISTRICT WHERE CURRENTLY EMPLOYED, OR A BOARD OF COOPERATIVE EDUCATIONAL SERVICES, AND WHO WAS NOT DISMISSED FROM SUCH DISTRICT OR BOARD AS A RESULT OF CHARGES BROUGHT PURSUANT TO SUBDIVISION ONE OF SECTION THREE THOUSAND TWENTY-A OF THIS CHAPTER, THE TEACHER SHALL BE APPOINTED FOR A PROBATIONARY PERIOD OF FOUR YEARS. THE SERVICE OF A PERSON APPOINTED TO ANY OF SUCH POSITIONS MAY BE DISCONTINUED AT ANY TIME DURING SUCH PROBATIONARY PERIOD, ON THE RECOMMENDATION OF THE SUPERINTENDENT OF SCHOOLS, BY A MAJORITY VOTE OF THE BOARD OF EDUCATION. EACH PERSON WHO IS NOT TO BE RECOMMENDED FOR APPOINTMENT ON TENURE SHALL BE SO NOTIFIED BY THE SUPERINTENDENT OF SCHOOLS IN WRITING NOT LATER THAN SIXTY DAYS IMMEDIATELY PRECEDING THE EXPIRATION OF HIS/HER PROBATIONARY PERIOD.

(b) I. Administrators, directors, supervisors, principals and all other members of the supervising staff, except associate, assistant and other superintendents[,] APPOINTED PRIOR TO JULY FIRST, TWO THOUSAND FIFTEEN AND authorized by section twenty-five hundred three of this article, shall be appointed by the board of education, upon the recommendation of the superintendent of schools for a probationary period of three years. The service of a person appointed to any of such positions may be discontinued at any time during the probationary period on the recommendation of the superintendent of schools, by a majority vote of the board of education.

II. NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR REGULATION TO THE CONTRARY, ADMINISTRATORS, DIRECTORS, SUPERVISORS, PRINCIPALS AND ALL OTHER MEMBERS OF THE SUPERVISING STAFF, EXCEPT ASSOCIATE, ASSISTANT AND OTHER SUPERINTENDENTS, APPOINTED ON OR AFTER JULY FIRST, TWO THOUSAND FIFTEEN AND AUTHORIZED BY SECTION TWENTY-FIVE HUNDRED THREE OF THIS ARTICLE, SHALL BE APPOINTED BY THE BOARD OF EDUCATION, UPON THE RECOMMENDATION OF THE SUPERINTENDENT OF SCHOOLS FOR A PROBATIONARY PERIOD OF FIVE YEARS. THE SERVICE OF A PERSON APPOINTED TO ANY OF SUCH POSITIONS MAY BE DISCONTINUED AT ANY TIME DURING THE PROBATIONARY PERIOD ON THE RECOMMENDATION OF THE SUPERINTENDENT OF SCHOOLS, BY A MAJORITY VOTE OF THE BOARD OF EDUCATION.

S 2. Subdivision 2 of section 2509 of the education law, as amended by section 6 of part A of chapter 57 of the laws of 2007, is amended to read as follows:

2. A. At the expiration of the probationary term of any persons appointed for such term PRIOR TO JULY FIRST, TWO THOUSAND FIFTEEN, or within six months prior thereto, the superintendent of schools shall

make a written report to the board of education recommending for appointment on tenure those persons who have been found competent, efficient and satisfactory[, consistent with any applicable rules of the board of regents adopted pursuant to section three thousand twelve-b of this chapter]. By a majority vote the board of education may then appoint on tenure any or all of the persons recommended by the superintendent of schools. Such persons and all others employed in the teaching service of the schools of such school district who have served the full probationary period shall hold their respective positions during good behavior and efficient and competent service, and shall not be removable except for cause after a hearing as provided by section three thousand twenty-a of [such law] THIS CHAPTER. Failure to maintain certification as required by this chapter and the regulations of the commissioner of education shall constitute cause for removal.

B. FOR PERSONS APPOINTED ON OR AFTER JULY FIRST, TWO THOUSAND FIFTEEN, AT THE EXPIRATION OF THE PROBATIONARY TERM OF ANY PERSONS APPOINTED FOR SUCH TERM, OR WITHIN SIX MONTHS PRIOR THERETO, THE SUPERINTENDENT OF SCHOOLS SHALL MAKE A WRITTEN REPORT TO THE BOARD OF EDUCATION RECOMMENDING FOR APPOINTMENT ON TENURE THOSE PERSONS WHO HAVE BEEN FOUND COMPETENT, EFFICIENT AND SATISFACTORY AND IN THE CASE OF A CLASSROOM TEACHER OR BUILDING PRINCIPAL, WHO HAVE RECEIVED COMPOSITE ANNUAL PROFESSIONAL PERFORMANCE REVIEW RATINGS PURSUANT TO THREE THOUSAND TWELVE-C OF THIS CHAPTER, OF EITHER EFFECTIVE OR HIGHLY EFFECTIVE IN EACH OF THE FIVE PRECEDING YEARS. BY A MAJORITY VOTE, THE BOARD OF EDUCATION MAY THEN APPOINT ON TENURE ANY OR ALL OF THE PERSONS RECOMMENDED BY THE SUPERINTENDENT OF SCHOOLS. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, IF NO AFFIRMATIVE ACTION IS TAKEN BY THE BOARD OF EDUCATION TO TERMINATE A CLASSROOM TEACHER OR BUILDING PRINCIPAL, OR TO APPROVE OR DENY TENURE TO A CLASSROOM TEACHER OR BUILDING PRINCIPAL AT THE EXPIRATION OF THE PROBATIONARY PERIOD, THE CLASSROOM TEACHER OR BUILDING PRINCIPAL SHALL REMAIN IN PROBATIONARY STATUS UNTIL THE END OF THE SCHOOL YEAR IN WHICH SUCH TEACHER OR PRINCIPAL HAS RECEIVED SUCH RATINGS OF EFFECTIVE OR HIGHLY EFFECTIVE FOR THE FIVE PRECEDING SCHOOL YEARS, DURING WHICH TIME A BOARD OF EDUCATION SHALL EITHER DISCONTINUE THE SERVICES OF SUCH PERSON, DENY TENURE OR APPROVE TENURE FOR THOSE CLASSROOM TEACHERS OR BUILDING PRINCIPALS WHO OTHERWISE HAVE BEEN FOUND COMPETENT, EFFICIENT AND SATISFACTORY. PROVIDED, HOWEVER, THAT THE BOARD OF EDUCATION MAY GRANT TENURE CONTINGENT UPON A CLASSROOM TEACHER'S OR BUILDING PRINCIPAL'S RECEIPT OF SUCH A RATING OF EFFECTIVE OR HIGHLY EFFECTIVE IN THE FIFTH YEAR, AND IF SUCH CONTINGENCY IS NOT MET, THE GRANT OF TENURE SHALL BE VOID AND UNENFORCEABLE AND THE TEACHER'S OR PRINCIPAL'S PROBATIONARY PERIOD SHALL BE EXTENDED IN ACCORDANCE WITH THIS SUBDIVISION. SUCH PERSONS WHO HAVE BEEN RECOMMENDED FOR TENURE AND ALL OTHERS EMPLOYED IN THE TEACHING SERVICE OF THE SCHOOLS OF SUCH SCHOOL DISTRICT WHO HAVE SERVED THE FULL PROBATIONARY PERIOD AS EXTENDED PURSUANT TO THIS SUBDIVISION SHALL HOLD THEIR RESPECTIVE POSITIONS DURING GOOD BEHAVIOR AND EFFICIENT AND COMPETENT SERVICE, AND SHALL NOT BE REMOVABLE EXCEPT FOR CAUSE AFTER A HEARING AS PROVIDED BY SECTION THREE THOUSAND TWENTY-A OF THIS CHAPTER. FAILURE TO MAINTAIN CERTIFICATION AS REQUIRED BY THIS CHAPTER AND THE REGULATIONS OF THE COMMISSIONER OF EDUCATION SHALL CONSTITUTE CAUSE FOR REMOVAL.

S 3. Subdivisions 1, 5 and 6 of section 2573 of the education law, subdivision 1 as amended by chapter 732 of the laws of 1971, paragraph (a) of subdivision 1 as amended by chapter 640 of the laws of 1983, paragraph (b) of subdivision 1 as amended by chapter 468 of the laws of

1975, subdivision 5 and 6 as amended by section 7 of part A of chapter 57 of the laws of 2007, are amended to read as follows:

1. (a) I. Teachers and all other members of the teaching staff, APPOINTED PRIOR TO JULY FIRST, TWO THOUSAND FIFTEEN AND authorized by section twenty-five hundred fifty-four of this article, shall be appointed by the board of education, upon the recommendation of the superintendent of schools, for a probationary period of three years, except that in the case of a teacher who has rendered satisfactory service as a regular substitute for a period of two years or as a seasonally licensed per session teacher of swimming in day schools who has served in that capacity for a period of two years and has been appointed to teach the same subject in day schools on an annual salary, the probationary period shall be limited to one year; provided, however, that in the case of a teacher who has been appointed on tenure in another school district within the state, the school district where currently employed, or a board of cooperative educational services, and who was not dismissed from such district or board as a result of charges brought pursuant to subdivision one of section three thousand twenty-a of this chapter, the probationary period shall not exceed two years; provided, however, that in cities with a population of one million or more, a teacher appointed under a newly created license, for teachers of reading and of the emotionally handicapped, to a position which the teacher has held for at least two years prior to such appointment while serving on tenure in another license area who was not dismissed as a result of charges brought pursuant to subdivision one of section three thousand twenty-a of this chapter, the probationary period shall be one year. The service of a person appointed to any of such positions may be discontinued at any time during such probationary period, on the recommendation of the superintendent of schools, by a majority vote of the board of education. Each person who is not to be recommended for appointment on tenure shall be so notified by the superintendent of schools in writing not later than sixty days immediately preceding the expiration of his probationary period. In city school districts having a population of four hundred thousand or more, persons with licenses obtained as a result of examinations announced subsequent to the twenty-second day of May, nineteen hundred sixty-nine appointed upon conditions that all announced requirements for the position be fulfilled within a specified period of time, shall not acquire tenure unless and until such requirements have been completed within the time specified for the fulfillment of such requirements, notwithstanding the expiration of any probationary period. In all other city school districts subject to the provisions of this article, failure to maintain certification as required by this article and by the regulations of the commissioner of education shall be cause for removal within the meaning of subdivision five of this section.

II. TEACHERS AND ALL OTHER MEMBERS OF THE TEACHING STAFF APPOINTED ON OR AFTER JULY FIRST, TWO THOUSAND FIFTEEN AND AUTHORIZED BY SECTION TWENTY-FIVE HUNDRED FIFTY-FOUR OF THIS ARTICLE, SHALL BE APPOINTED BY THE BOARD OF EDUCATION, UPON THE RECOMMENDATION OF THE SUPERINTENDENT OF SCHOOLS, FOR A PROBATIONARY PERIOD OF FIVE YEARS, EXCEPT THAT IN THE CASE OF A TEACHER WHO HAS RENDERED SATISFACTORY SERVICE AS A REGULAR SUBSTITUTE FOR A PERIOD OF TWO YEARS OR AS A SEASONALLY LICENSED PER SESSION TEACHER OF SWIMMING IN DAY SCHOOLS WHO HAS SERVED IN THAT CAPACITY FOR A PERIOD OF TWO YEARS AND HAS BEEN APPOINTED TO TEACH THE SAME SUBJECT IN DAY SCHOOLS ON AN ANNUAL SALARY, THE TEACHER SHALL BE APPOINTED FOR A PROBATIONARY PERIOD OF THREE YEARS; PROVIDED, HOWEVER,

THAT IN THE CASE OF A TEACHER WHO HAS BEEN APPOINTED ON TENURE IN ANOTHER SCHOOL DISTRICT WITHIN THE STATE, THE SCHOOL DISTRICT WHERE CURRENTLY EMPLOYED, OR A BOARD OF COOPERATIVE EDUCATIONAL SERVICES, AND WHO WAS NOT DISMISSED FROM SUCH DISTRICT OR BOARD AS A RESULT OF CHARGES BROUGHT PURSUANT TO SUBDIVISION ONE OF SECTION THREE THOUSAND TWENTY-A OF THIS CHAPTER, THE TEACHER SHALL BE APPOINTED FOR A PROBATIONARY PERIOD OF FOUR YEARS; PROVIDED, HOWEVER, THAT IN CITIES WITH A POPULATION OF ONE MILLION OR MORE, A TEACHER APPOINTED UNDER A NEWLY CREATED LICENSE, FOR TEACHERS OF READING AND OF THE EMOTIONALLY HANDICAPPED, TO A POSITION WHICH THE TEACHER HAS HELD FOR AT LEAST TWO YEARS PRIOR TO SUCH APPOINTMENT WHILE SERVING ON TENURE IN ANOTHER LICENSE AREA WHO WAS NOT DISMISSED AS A RESULT OF CHARGES BROUGHT PURSUANT TO SUBDIVISION ONE OF SECTION THREE THOUSAND TWENTY-A OF THIS CHAPTER, THE TEACHER SHALL BE APPOINTED FOR A PROBATIONARY PERIOD OF THREE YEARS. THE SERVICE OF A PERSON APPOINTED TO ANY OF SUCH POSITIONS MAY BE DISCONTINUED AT ANY TIME DURING SUCH PROBATIONARY PERIOD, ON THE RECOMMENDATION OF THE SUPERINTENDENT OF SCHOOLS, BY A MAJORITY VOTE OF THE BOARD OF EDUCATION. EACH PERSON WHO IS NOT TO BE RECOMMENDED FOR APPOINTMENT ON TENURE SHALL BE SO NOTIFIED BY THE SUPERINTENDENT OF SCHOOLS IN WRITING NOT LATER THAN SIXTY DAYS IMMEDIATELY PRECEDING THE EXPIRATION OF HIS PROBATIONARY PERIOD. IN ALL CITY SCHOOL DISTRICTS SUBJECT TO THE PROVISIONS OF THIS ARTICLE, FAILURE TO MAINTAIN CERTIFICATION AS REQUIRED BY THIS ARTICLE AND BY THE REGULATIONS OF THE COMMISSIONER OF EDUCATION SHALL BE CAUSE FOR REMOVAL WITHIN THE MEANING OF SUBDIVISION FIVE OF THIS SECTION.

(b) I. Administrators, directors, supervisors, principals and all other members of the supervising staff, except executive directors, associate, assistant, district and community superintendents and examiners, APPOINTED PRIOR TO JULY FIRST, TWO THOUSAND FIFTEEN AND authorized by section twenty-five hundred fifty-four of this article, shall be appointed by the board of education, upon the recommendation of the superintendent or chancellor of schools, for a probationary period of three years. The service of a person appointed to any of such positions may be discontinued at any time during the probationary period on the recommendation of the superintendent of schools, by a majority vote of the board of education.

II. ADMINISTRATORS, DIRECTORS, SUPERVISORS, PRINCIPALS AND ALL OTHER MEMBERS OF THE SUPERVISING STAFF, EXCEPT EXECUTIVE DIRECTORS, ASSOCIATE, ASSISTANT, DISTRICT AND COMMUNITY SUPERINTENDENTS AND EXAMINERS, APPOINTED ON OR AFTER JULY 1, 2015 AND AUTHORIZED BY SECTION TWENTY-FIVE HUNDRED FIFTY-FOUR OF THIS ARTICLE, SHALL BE APPOINTED BY THE BOARD OF EDUCATION, UPON THE RECOMMENDATION OF THE SUPERINTENDENT OR CHANCELLOR OF SCHOOLS, FOR A PROBATIONARY PERIOD OF FIVE YEARS PROVIDED THAT SUCH PROBATIONARY PERIOD MAY BE EXTENDED IN ACCORDANCE WITH PARAGRAPH (B) OF SUBDIVISION FIVE OF THIS SECTION. THE SERVICE OF A PERSON APPOINTED TO ANY OF SUCH POSITIONS MAY BE DISCONTINUED AT ANY TIME DURING THE PROBATIONARY PERIOD ON THE RECOMMENDATION OF THE SUPERINTENDENT OF SCHOOLS, BY A MAJORITY VOTE OF THE BOARD OF EDUCATION.

5. (A) At the expiration of the probationary term of any persons appointed for such term PRIOR TO JULY FIRST, TWO THOUSAND FIFTEEN, the superintendent of schools shall make a written report to the board of education recommending for permanent appointment those persons who have been found competent, efficient and satisfactory[, consistent with any applicable rules of the board of regents adopted pursuant to section three thousand twelve-b of this chapter]. Such persons and all others employed in the teaching, service of the schools of a city, who have served the full probationary period, shall hold their respective posi-

tions during good behavior and efficient and competent service, and shall not be removable except for cause after a hearing as provided by section three thousand twenty-a of this chapter.

(B) AT THE EXPIRATION OF THE PROBATIONARY TERM OF ANY PERSONS APPOINTED FOR SUCH TERM ON OR AFTER JULY FIRST, TWO THOUSAND FIFTEEN, THE SUPERINTENDENT OF SCHOOLS SHALL MAKE A WRITTEN REPORT TO THE BOARD OF EDUCATION RECOMMENDING FOR PERMANENT APPOINTMENT THOSE PERSONS WHO HAVE BEEN FOUND COMPETENT, EFFICIENT AND SATISFACTORY AND, IN THE CASE OF A CLASSROOM TEACHER OR BUILDING PRINCIPAL, WHO HAVE RECEIVED COMPOSITE ANNUAL PROFESSIONAL PERFORMANCE REVIEW RATINGS PURSUANT TO SECTION THREE THOUSAND TWELVE-C OF THIS CHAPTER, OF EITHER EFFECTIVE OR HIGHLY EFFECTIVE IN EACH OF THE FIVE PRECEDING YEARS. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, IF NO AFFIRMATIVE ACTION IS TAKEN BY THE BOARD OF EDUCATION TO TERMINATE A CLASSROOM TEACHER OR BUILDING PRINCIPAL, OR TO APPROVE OR DENY TENURE TO A CLASSROOM TEACHER OR BUILDING PRINCIPAL AT THE EXPIRATION OF THE PROBATIONARY PERIOD, THE CLASSROOM TEACHER OR BUILDING PRINCIPAL SHALL REMAIN IN PROBATIONARY STATUS UNTIL THE END OF THE SCHOOL YEAR IN WHICH SUCH TEACHER OR PRINCIPAL HAS RECEIVED SUCH RATINGS OF EFFECTIVE OR HIGHLY EFFECTIVE FOR THE FIVE PRECEDING SCHOOL YEARS, DURING WHICH TIME A BOARD OF EDUCATION SHALL EITHER DISCONTINUE THE SERVICES OF SUCH PERSON, DENY TENURE OR APPROVE TENURE FOR THOSE CLASSROOM TEACHERS OR BUILDING PRINCIPALS WHO OTHERWISE HAVE BEEN FOUND COMPETENT, EFFICIENT AND SATISFACTORY. PROVIDED, HOWEVER, THAT THE BOARD OF EDUCATION MAY GRANT TENURE CONTINGENT UPON A CLASSROOM TEACHER'S OR BUILDING PRINCIPAL'S RECEIPT OF SUCH A RATING OF EFFECTIVE OR HIGHLY EFFECTIVE IN THE FIFTH YEAR, AND IF SUCH CONTINGENCY IS NOT MET, THE GRANT OF TENURE SHALL BE VOID AND UNENFORCEABLE AND THE TEACHER'S OR PRINCIPAL'S PROBATIONARY PERIOD SHALL BE EXTENDED IN ACCORDANCE WITH THIS SUBDIVISION. SUCH PERSONS WHO HAVE BEEN RECOMMENDED FOR TENURE AND ALL OTHERS EMPLOYED IN THE TEACHING SERVICE OF THE SCHOOLS OF SUCH SCHOOL DISTRICT WHO HAVE SERVED THE FULL PROBATIONARY PERIOD AS EXTENDED PURSUANT TO THIS SUBDIVISION SHALL HOLD THEIR RESPECTIVE POSITIONS DURING GOOD BEHAVIOR AND EFFICIENT AND COMPETENT SERVICE, AND SHALL NOT BE REMOVABLE EXCEPT FOR CAUSE AFTER A HEARING AS PROVIDED BY SECTION THREE THOUSAND TWENTY-A OF THIS CHAPTER. FAILURE TO MAINTAIN CERTIFICATION AS REQUIRED BY THIS CHAPTER AND THE REGULATIONS OF THE COMMISSIONER OF EDUCATION SHALL CONSTITUTE CAUSE FOR REMOVAL.

6. (A) In a city having a population of four hundred thousand or more, at the expiration of the probationary term of any persons appointed for such term PRIOR TO JULY FIRST, TWO THOUSAND FIFTEEN, the superintendent of schools shall make a written report to the board of education recommending for permanent appointment those persons who have been found satisfactory[, consistent with any applicable rules of the board of regents adopted pursuant to section three thousand twelve-b of this chapter], and such board of education shall immediately thereafter issue to such persons permanent certificates of appointment. Such persons and all others employed in the teaching service of the schools of such city, who have served the full probationary period shall receive permanent certificates to teach issued to them by the certificating authority, except as otherwise provided in subdivision ten-a of this section, and shall hold their respective positions during good behavior and satisfactory teaching service, and shall not be removable except for cause after a hearing as provided by section three thousand twenty-a of this chapter.

(B) AT THE EXPIRATION OF THE PROBATIONARY TERM OF ANY PERSONS APPOINTED FOR SUCH TERM ON OR AFTER JULY FIRST, TWO THOUSAND FIFTEEN,

THE SUPERINTENDENT OF SCHOOLS SHALL MAKE A WRITTEN REPORT TO THE BOARD OF EDUCATION RECOMMENDING FOR PERMANENT APPOINTMENT THOSE PERSONS WHO HAVE BEEN FOUND COMPETENT, EFFICIENT AND SATISFACTORY AND, IN THE CASE OF A CLASSROOM TEACHER OR BUILDING PRINCIPAL, WHO HAVE RECEIVED COMPOSITE ANNUAL PROFESSIONAL PERFORMANCE REVIEW RATINGS PURSUANT TO SECTION THREE THOUSAND TWELVE-C OF THIS CHAPTER, OF EITHER EFFECTIVE OR HIGHLY EFFECTIVE IN EACH OF THE FIVE PRECEDING YEARS. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, IF NO AFFIRMATIVE ACTION IS TAKEN BY THE BOARD OF EDUCATION TO TERMINATE A CLASSROOM TEACHER OR BUILDING PRINCIPAL, OR TO APPROVE OR DENY TENURE TO A CLASSROOM TEACHER OR BUILDING PRINCIPAL AT THE EXPIRATION OF THE PROBATIONARY PERIOD, THE CLASSROOM TEACHER OR BUILDING PRINCIPAL SHALL REMAIN IN PROBATIONARY STATUS UNTIL THE END OF THE SCHOOL YEAR IN WHICH SUCH TEACHER OR PRINCIPAL HAS RECEIVED SUCH RATINGS OF EFFECTIVE OR HIGHLY EFFECTIVE FOR THE FIVE PRECEDING SCHOOL YEARS, DURING WHICH TIME A BOARD OF EDUCATION SHALL EITHER DISCONTINUE THE SERVICES OF SUCH PERSON, DENY TENURE OR APPROVE TENURE FOR THOSE CLASSROOM TEACHERS OR BUILDING PRINCIPALS WHO OTHERWISE HAVE BEEN FOUND COMPETENT, EFFICIENT AND SATISFACTORY. PROVIDED, HOWEVER, THAT THE BOARD OF EDUCATION MAY GRANT TENURE CONTINGENT UPON A CLASSROOM TEACHER'S OR BUILDING PRINCIPAL'S RECEIPT OF SUCH A RATING OF EFFECTIVE OR HIGHLY EFFECTIVE IN THE FIFTH YEAR, AND IF SUCH CONTINGENCY IS NOT MET, THE GRANT OF TENURE SHALL BE VOID AND UNENFORCEABLE AND THE TEACHER'S OR PRINCIPAL'S PROBATIONARY PERIOD SHALL BE EXTENDED IN ACCORDANCE WITH THIS SUBDIVISION. SUCH PERSONS WHO HAVE BEEN RECOMMENDED FOR TENURE AND ALL OTHERS EMPLOYED IN THE TEACHING SERVICE OF THE SCHOOLS OF SUCH SCHOOL DISTRICT WHO HAVE SERVED THE FULL PROBATIONARY PERIOD AS EXTENDED PURSUANT TO THIS SUBDIVISION SHALL HOLD THEIR RESPECTIVE POSITIONS DURING GOOD BEHAVIOR AND EFFICIENT AND COMPETENT SERVICE, AND SHALL NOT BE REMOVABLE EXCEPT FOR CAUSE AFTER A HEARING AS PROVIDED BY SECTION THREE THOUSAND TWENTY-A OF THIS CHAPTER. FAILURE TO MAINTAIN CERTIFICATION AS REQUIRED BY THIS CHAPTER AND THE REGULATIONS OF THE COMMISSIONER OF EDUCATION SHALL CONSTITUTE CAUSE FOR REMOVAL.

S 4. Section 3012 of the education law, the section heading as amended by chapter 358 of the laws of 1978, subdivision 1 as amended by chapter 442 of the laws of 1980, paragraph (a) of subdivision 1 as amended by chapter 737 of the laws of 1992, subdivision 2 as amended by section 8 of part A of chapter 57 of the laws of 2007, subdivision 3 as added by chapter 859 of the laws of 1955 and as renumbered by chapter 717 of the laws of 1970, is amended to read as follows:

S 3012. Tenure: certain school districts. 1. (a) I. Teachers and all other members of the teaching staff of school districts, including common school districts and/or school districts employing fewer than eight teachers, other than city school districts, WHO ARE APPOINTED PRIOR TO JULY FIRST, TWO THOUSAND FIFTEEN, shall be appointed by the board of education, or the trustees of common school districts, upon the recommendation of the superintendent of schools, for a probationary period of three years, except that in the case of a teacher who has rendered satisfactory service as a regular substitute for a period of two years or as a seasonally licensed per session teacher of swimming in day schools who has served in that capacity for a period of two years and has been appointed to teach the same subject in day schools, on an annual salary, the probationary period shall be limited to one year; provided, however, that in the case of a teacher who has been appointed on tenure in another school district within the state, the school district where currently employed, or a board of cooperative educational services, and who was not dismissed from such district or board as a

result of charges brought pursuant to subdivision one of section three thousand twenty-a of this [chapter] ARTICLE, the probationary period shall not exceed two years. The service of a person appointed to any of such positions may be discontinued at any time during such probationary period, on the recommendation of the superintendent of schools, by a majority vote of the board of education or the trustees of a common school district.

II. TEACHERS AND ALL OTHER MEMBERS OF THE TEACHING STAFF OF SCHOOL DISTRICTS, INCLUDING COMMON SCHOOL DISTRICTS AND/OR SCHOOL DISTRICTS EMPLOYING FEWER THAN EIGHT TEACHERS, OTHER THAN CITY SCHOOL DISTRICTS, WHO ARE APPOINTED ON OR AFTER JULY FIRST, TWO THOUSAND FIFTEEN, SHALL BE APPOINTED BY THE BOARD OF EDUCATION, OR THE TRUSTEES OF COMMON SCHOOL DISTRICTS, UPON THE RECOMMENDATION OF THE SUPERINTENDENT OF SCHOOLS, FOR A PROBATIONARY PERIOD OF FIVE YEARS, EXCEPT THAT IN THE CASE OF A TEACHER WHO HAS RENDERED SATISFACTORY SERVICE AS A REGULAR SUBSTITUTE FOR A PERIOD OF TWO YEARS OR AS A SEASONALLY LICENSED PER SESSION TEACHER OF SWIMMING IN DAY SCHOOLS WHO HAS SERVED IN THAT CAPACITY FOR A PERIOD OF TWO YEARS AND HAS BEEN APPOINTED TO TEACH THE SAME SUBJECT IN DAY SCHOOLS, ON AN ANNUAL SALARY, THE TEACHER SHALL BE APPOINTED FOR A PROBATIONARY PERIOD OF THREE YEARS; PROVIDED, HOWEVER, THAT IN THE CASE OF A TEACHER WHO HAS BEEN APPOINTED ON TENURE IN ANOTHER SCHOOL DISTRICT WITHIN THE STATE, THE SCHOOL DISTRICT WHERE CURRENTLY EMPLOYED, OR A BOARD OF COOPERATIVE EDUCATIONAL SERVICES, AND WHO WAS NOT DISMISSED FROM SUCH DISTRICT OR BOARD AS A RESULT OF CHARGES BROUGHT PURSUANT TO SUBDIVISION ONE OF SECTION THREE THOUSAND TWENTY-A OF THIS ARTICLE, THE TEACHER SHALL BE APPOINTED FOR A PROBATIONARY PERIOD OF FOUR YEARS. THE SERVICE OF A PERSON APPOINTED TO ANY OF SUCH POSITIONS MAY BE DISCONTINUED AT ANY TIME DURING SUCH PROBATIONARY PERIOD, ON THE RECOMMENDATION OF THE SUPERINTENDENT OF SCHOOLS, BY A MAJORITY VOTE OF THE BOARD OF EDUCATION OR THE TRUSTEES OF A COMMON SCHOOL DISTRICT.

(b) I. Principals, administrators, supervisors and all other members of the supervising staff of school districts, including common school districts and/or school districts employing fewer than eight teachers, other than city school districts, WHO ARE APPOINTED PRIOR TO JULY FIRST, TWO THOUSAND FIFTEEN, shall be appointed by the board of education, or the trustees of a common school district, upon the recommendation of the superintendent of schools for a probationary period of three years. The service of a person appointed to any of such positions may be discontinued at any time during the probationary period on the recommendation of the superintendent of schools, by a majority vote of the board of education or the trustees of a common school district.

II. PRINCIPALS, ADMINISTRATORS, SUPERVISORS AND ALL OTHER MEMBERS OF THE SUPERVISING STAFF OF SCHOOL DISTRICTS, INCLUDING COMMON SCHOOL DISTRICTS AND/OR SCHOOL DISTRICTS EMPLOYING FEWER THAN EIGHT TEACHERS, OTHER THAN CITY SCHOOL DISTRICTS, WHO ARE APPOINTED ON OR AFTER JULY FIRST, TWO THOUSAND FIFTEEN, SHALL BE APPOINTED BY THE BOARD OF EDUCATION, OR THE TRUSTEES OF A COMMON SCHOOL DISTRICT, UPON THE RECOMMENDATION OF THE SUPERINTENDENT OF SCHOOLS FOR A PROBATIONARY PERIOD OF FIVE YEARS. THE SERVICE OF A PERSON APPOINTED TO ANY OF SUCH POSITIONS MAY BE DISCONTINUED AT ANY TIME DURING THE PROBATIONARY PERIOD ON THE RECOMMENDATION OF THE SUPERINTENDENT OF SCHOOLS, BY A MAJORITY VOTE OF THE BOARD OF EDUCATION OR THE TRUSTEES OF A COMMON SCHOOL DISTRICT.

(c) Any person previously appointed to tenure or a probationary period pursuant to the provisions of former section three thousand thirteen of this [chapter] ARTICLE shall continue to hold such position and be

governed by the provisions of this section notwithstanding any contrary provision of law.

2. (A) At the expiration of the probationary term of a person appointed for such term PRIOR TO JULY FIRST, TWO THOUSAND FIFTEEN, subject to the conditions of this section, the superintendent of schools shall make a written report to the board of education or the trustees of a common school district recommending for appointment on tenure those persons who have been found competent, efficient and satisfactory[, consistent with any applicable rules of the board of regents adopted pursuant to section three thousand twelve-b of this article]. Such persons, and all others employed in the teaching service of the schools of such union free school district, common school district and/or school district employing fewer than eight teachers, who have served the probationary period as provided in this section, shall hold their respective positions during good behavior and efficient and competent service, and shall not be removed except for any of the following causes, after a hearing, as provided by section three thousand twenty-a of [such law] THIS ARTICLE: (a) insubordination, immoral character or conduct unbecoming a teacher; (b) inefficiency, incompetency, physical or mental disability, or neglect of duty; (c) failure to maintain certification as required by this chapter and by the regulations of the commissioner. Each person who is not to be recommended for appointment on tenure, shall be so notified by the superintendent of schools in writing not later than sixty days immediately preceding the expiration of his probationary period.

(B) AT THE EXPIRATION OF THE PROBATIONARY TERM OF A PERSON APPOINTED FOR SUCH TERM ON OR AFTER JULY FIRST, TWO THOUSAND FIFTEEN, SUBJECT TO THE CONDITIONS OF THIS SECTION, THE SUPERINTENDENT OF SCHOOLS SHALL MAKE A WRITTEN REPORT TO THE BOARD OF EDUCATION OR THE TRUSTEES OF A COMMON SCHOOL DISTRICT RECOMMENDING FOR APPOINTMENT ON TENURE THOSE PERSONS WHO HAVE BEEN FOUND COMPETENT, EFFICIENT AND SATISFACTORY AND, IN THE CASE OF A CLASSROOM TEACHER OR BUILDING PRINCIPAL, WHO HAVE RECEIVED COMPOSITE ANNUAL PROFESSIONAL PERFORMANCE REVIEW RATINGS PURSUANT TO SECTION THREE THOUSAND TWELVE-C OF THIS ARTICLE, OF EITHER EFFECTIVE OR HIGHLY EFFECTIVE IN EACH OF THE FIVE PRECEDING YEARS. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, IF NO AFFIRMATIVE ACTION IS TAKEN BY THE TRUSTEES OR BOARD OF EDUCATION TO TERMINATE A CLASSROOM TEACHER OR BUILDING PRINCIPAL, OR TO APPROVE OR DENY TENURE TO A CLASSROOM TEACHER OR BUILDING PRINCIPAL AT THE EXPIRATION OF THE PROBATIONARY PERIOD, THE CLASSROOM TEACHER OR BUILDING PRINCIPAL SHALL REMAIN IN PROBATIONARY STATUS UNTIL THE END OF THE SCHOOL YEAR IN WHICH SUCH TEACHER OR PRINCIPAL HAS RECEIVED SUCH RATINGS OF EFFECTIVE OR HIGHLY EFFECTIVE FOR THE FIVE PRECEDING SCHOOL YEARS, DURING WHICH TIME THE TRUSTEES OR BOARD OF EDUCATION SHALL EITHER DISCONTINUE THE SERVICES OF SUCH PERSON, DENY TENURE OR APPROVE TENURE FOR THOSE CLASSROOM TEACHERS OR BUILDING PRINCIPALS WHO OTHERWISE HAVE BEEN FOUND COMPETENT, EFFICIENT AND SATISFACTORY. PROVIDED, HOWEVER, THAT THE TRUSTEES OR BOARD OF EDUCATION MAY GRANT TENURE CONTINGENT UPON A CLASSROOM TEACHER'S OR BUILDING PRINCIPAL'S RECEIPT OF SUCH A RATING OF EFFECTIVE OR HIGHLY EFFECTIVE IN THE FIFTH YEAR, AND IF SUCH CONTINGENCY IS NOT MET, THE GRANT OF TENURE SHALL BE VOID AND UNENFORCEABLE AND THE TEACHER'S OR PRINCIPAL'S PROBATIONARY PERIOD SHALL BE EXTENDED IN ACCORDANCE WITH THIS SUBDIVISION. SUCH PERSONS WHO HAVE BEEN RECOMMENDED FOR TENURE AND ALL OTHERS EMPLOYED IN THE TEACHING SERVICE OF THE SCHOOLS OF SUCH SCHOOL DISTRICT WHO HAVE SERVED THE FULL PROBATIONARY PERIOD AS EXTENDED PURSUANT TO THIS SUBDIVISION SHALL HOLD THEIR RESPECTIVE POSITIONS

DURING GOOD BEHAVIOR AND EFFICIENT AND COMPETENT SERVICE, AND SHALL NOT BE REMOVABLE EXCEPT FOR CAUSE AFTER A HEARING AS PROVIDED BY SECTION THREE THOUSAND TWENTY-A OF THIS ARTICLE. FAILURE TO MAINTAIN CERTIFICATION AS REQUIRED BY THIS CHAPTER AND THE REGULATIONS OF THE COMMISSIONER OF EDUCATION SHALL CONSTITUTE CAUSE FOR REMOVAL.

3. Notwithstanding any other provision of this section no period in any school year for which there is no required service and/or for which no compensation is provided shall in any event constitute a break or suspension of probationary period or continuity of tenure rights of any of the persons hereinabove described.

S 5. Section 3014 of the education law, as added by chapter 583 of the laws of 1955, subdivision 1 as amended by chapter 551 of the laws of 1976, subdivision 2 as amended by section 10 of part A of chapter 57 of the laws of 2007, is amended to read as follows:

S 3014. Tenure: boards of cooperative educational services. 1. (A) Administrative assistants, supervisors, teachers and all other members of the teaching and supervising staff of the board of cooperative educational services APPOINTED PRIOR TO JULY FIRST, TWO THOUSAND FIFTEEN, shall be appointed by a majority vote of the board of cooperative educational services upon the recommendation of the district superintendent of schools for a probationary period of not to exceed three years; provided, however, that in the case of a teacher who has been appointed on tenure in a school district within the state, the board of cooperative educational services where currently employed, or another board of cooperative educational services, and who was not dismissed from such district or board as a result of charges brought pursuant to subdivision one of section three thousand twenty-a of this [chapter] ARTICLE, the probationary period shall not exceed two years. Services of a person so appointed to any such positions may be discontinued at any time during such probationary period, upon the recommendation of the district superintendent, by a majority vote of the board of cooperative educational services.

(B) ADMINISTRATIVE ASSISTANTS, SUPERVISORS, TEACHERS AND ALL OTHER MEMBERS OF THE TEACHING AND SUPERVISING STAFF OF THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES APPOINTED ON OR AFTER JULY FIRST, TWO THOUSAND FIFTEEN, SHALL BE APPOINTED BY A MAJORITY VOTE OF THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES UPON THE RECOMMENDATION OF THE DISTRICT SUPERINTENDENT OF SCHOOLS FOR A PROBATIONARY PERIOD OF NOT TO EXCEED FIVE YEARS; PROVIDED, HOWEVER, THAT IN THE CASE OF A TEACHER WHO HAS BEEN APPOINTED ON TENURE IN A SCHOOL DISTRICT WITHIN THE STATE, THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES WHERE CURRENTLY EMPLOYED, OR ANOTHER BOARD OF COOPERATIVE EDUCATIONAL SERVICES, AND WHO WAS NOT DISMISSED FROM SUCH DISTRICT OR BOARD AS A RESULT OF CHARGES BROUGHT PURSUANT TO SUBDIVISION ONE OF SECTION THREE THOUSAND TWENTY-A OF THIS ARTICLE, THE TEACHER SHALL BE APPOINTED FOR A PROBATIONARY PERIOD OF FOUR YEARS. SERVICES OF A PERSON SO APPOINTED TO ANY SUCH POSITIONS MAY BE DISCONTINUED AT ANY TIME DURING SUCH PROBATIONARY PERIOD, UPON THE RECOMMENDATION OF THE DISTRICT SUPERINTENDENT, BY A MAJORITY VOTE OF THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES.

2. (A) On or before the expiration of the probationary term of a person appointed for such term PRIOR TO JULY FIRST, TWO THOUSAND FIFTEEN, the district superintendent of schools shall make a written report to the board of cooperative educational services recommending for appointment on tenure persons who have been found competent, efficient and satisfactory[, consistent with any applicable rules of the board of regents adopted pursuant to section three thousand twelve-b of this

article]. Such persons shall hold their respective positions during good behavior and competent and efficient service and shall not be removed except for any of the following causes, after a hearing, as provided by section three thousand twenty-a of [such law] THIS ARTICLE: [(a)] (I) Insubordination, immoral character or conduct unbecoming a teacher; [(b)] (II) Inefficiency, incompetency, physical or mental disability or neglect of duty; [(c)] (III) Failure to maintain certification as required by this chapter and by the regulations of the commissioner. Each person who is not to be so recommended for appointment on tenure shall be so notified in writing by the district superintendent not later than sixty days immediately preceding the expiration of his probationary period.

(B) ON OR BEFORE THE EXPIRATION OF THE PROBATIONARY TERM OF A PERSON APPOINTED FOR SUCH TERM ON OR AFTER JULY FIRST, TWO THOUSAND FIFTEEN, THE DISTRICT SUPERINTENDENT OF SCHOOLS SHALL MAKE A WRITTEN REPORT TO THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES RECOMMENDING FOR APPOINTMENT ON TENURE PERSONS WHO HAVE BEEN FOUND COMPETENT, EFFICIENT AND SATISFACTORY AND, IN THE CASE OF A CLASSROOM TEACHER OR BUILDING PRINCIPAL, WHO HAVE RECEIVED COMPOSITE ANNUAL PROFESSIONAL PERFORMANCE REVIEW RATINGS PURSUANT TO THREE THOUSAND TWELVE-C OF THIS ARTICLE, OF EITHER EFFECTIVE OR HIGHLY EFFECTIVE IN EACH OF THE FIVE PRECEDING YEARS. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, IF NO AFFIRMATIVE ACTION IS TAKEN BY THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES TO TERMINATE A CLASSROOM TEACHER OR BUILDING PRINCIPAL, OR TO APPROVE OR DENY TENURE TO A CLASSROOM TEACHER OR BUILDING PRINCIPAL AT THE EXPIRATION OF THE PROBATIONARY PERIOD, THE CLASSROOM TEACHER OR BUILDING PRINCIPAL SHALL REMAIN IN PROBATIONARY STATUS UNTIL THE END OF THE SCHOOL YEAR IN WHICH SUCH TEACHER OR PRINCIPAL HAS RECEIVED SUCH RATINGS OF EFFECTIVE OR HIGHLY EFFECTIVE FOR THE FIVE PRECEDING SCHOOL YEARS, DURING WHICH TIME A BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL EITHER DISCONTINUE THE SERVICES OF SUCH PERSON, DENY TENURE OR APPROVE TENURE FOR THOSE CLASSROOM TEACHERS OR BUILDING PRINCIPALS WHO OTHERWISE HAVE BEEN FOUND COMPETENT, EFFICIENT AND SATISFACTORY. PROVIDED, HOWEVER, THAT THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES MAY GRANT TENURE CONTINGENT UPON A CLASSROOM TEACHER'S OR BUILDING PRINCIPAL'S RECEIPT OF SUCH A RATING OF EFFECTIVE OR HIGHLY EFFECTIVE IN THE FIFTH YEAR, AND IF SUCH CONTINGENCY IS NOT MET, THE GRANT OF TENURE SHALL BE VOID AND UNENFORCEABLE AND THE TEACHER'S OR PRINCIPAL'S PROBATIONARY PERIOD SHALL BE EXTENDED IN ACCORDANCE WITH THIS SUBDIVISION. SUCH PERSONS SHALL HOLD THEIR RESPECTIVE POSITIONS DURING GOOD BEHAVIOR AND COMPETENT AND EFFICIENT SERVICE AND SHALL NOT BE REMOVED EXCEPT FOR ANY OF THE FOLLOWING CAUSES, AFTER A HEARING, AS PROVIDED BY SECTION THREE THOUSAND TWENTY-A OF THIS ARTICLE: (I) INSUBORDINATION, IMMORAL CHARACTER OR CONDUCT UNBECOMING A TEACHER; (II) INEFFICIENCY, INCOMPETENCY, PHYSICAL OR MENTAL DISABILITY OR NEGLECT OF DUTY; (III) FAILURE TO MAINTAIN CERTIFICATION AS REQUIRED BY THIS CHAPTER AND BY THE REGULATIONS OF THE COMMISSIONER. EACH PERSON WHO IS NOT TO BE SO RECOMMENDED FOR APPOINTMENT ON TENURE SHALL BE SO NOTIFIED IN WRITING BY THE DISTRICT SUPERINTENDENT NOT LATER THAN SIXTY DAYS IMMEDIATELY PRECEDING THE EXPIRATION OF HIS PROBATIONARY PERIOD.

S 6. Subdivision 1 of section 3012-c of the education law, as amended by chapter 21 of the laws of 2012, is amended to read as follows:

1. Notwithstanding any other provision of law, rule or regulation to the contrary, the annual professional performance reviews of all classroom teachers and building principals employed by school districts or boards of cooperative educational services shall be conducted in accord-

ance with the provisions of this section. Such performance reviews which are conducted on or after July first, two thousand eleven, or on or after the date specified in paragraph c of subdivision two of this section where applicable, shall include measures of student achievement and be conducted in accordance with this section. Such annual professional performance reviews shall be a significant factor for employment decisions including but not limited to, promotion, retention, tenure determination, termination, and supplemental compensation, which decisions are to be made in accordance with locally developed procedures negotiated pursuant to the requirements of article fourteen of the civil service law where applicable. Provided, however, that nothing in this section shall be construed to affect the UNFETTERED statutory right of a school district or board of cooperative educational services to terminate a probationary teacher or principal for ANY statutorily and constitutionally permissible reasons [other than the performance of the teacher or principal in the classroom or school], including but not limited to misconduct AND UNTIL A TENURE DECISION IS MADE AT THE END/EXPIRATION/CONCLUSION OF THE PROBATIONARY PERIOD, THE PERFORMANCE OF THE TEACHER OR PRINCIPAL IN THE CLASSROOM. Such performance reviews shall also be a significant factor in teacher and principal development, including but not limited to, coaching, induction support and differentiated professional development, which are to be locally established in accordance with procedures negotiated pursuant to the requirements of article fourteen of the civil service law.

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

b. Nothing in this section shall be construed to alter or diminish the authority of the governing body of a school district or board of cooperative educational services to grant or deny tenure to or terminate probationary teachers or probationary building principals during the pendency of an appeal pursuant to this section for statutorily and constitutionally permissible reasons [other than] INCLUDING the teacher's or principal's performance that is the subject of the appeal.

S 8. This act shall take effect immediately.

SUBPART D

Section 1. The education law is amended by adding a new section 211-g to read as follows:

S 211-G. TAKEOVER AND RESTRUCTURING FAILING SCHOOL DISTRICTS. 1. (A) A SCHOOL DISTRICT, OTHER THAN A SPECIAL ACT SCHOOL DISTRICT AS DEFINED IN SUBDIVISION EIGHT OF SECTION FOUR THOUSAND ONE OF THIS CHAPTER, SHALL BE DEEMED ELIGIBLE FOR DESIGNATION AS FAILING UPON A DETERMINATION BY THE COMMISSIONER, PURSUANT TO REGULATIONS ADOPTED BY SUCH COMMISSIONER, THAT THE SCHOOL DISTRICT HAS SCORED IN THE LOWEST TWO AND ONE-HALF PERCENT OF SCHOOL DISTRICTS STATEWIDE WHEN COMPARED TO OTHER DISTRICTS BASED ON METRICS OF STUDENT ACHIEVEMENT AND OUTCOMES PRESCRIBED IN SUCH REGULATIONS WHICH MAY INCLUDE BUT SHALL NOT BE LIMITED TO PERFORMANCE ON STATE ASSESSMENTS, GRADUATION RATES AND DROP-OUT RATES AND/OR PERFORMANCE OF THE DISTRICT OVER TIME IN SUCH MEASURES OF STUDENT ACADEMIC ACHIEVEMENT AND OUTCOMES. IN MAKING SUCH DETERMINATION THE COMMISSIONER SHALL CONSIDER THE SEVERITY AND DURATION OF THE DEFICIENCIES IN STUDENT ACHIEVEMENT AND OUTCOMES OF THE DISTRICT.

(B) FOR ANY SCHOOL DISTRICT DEEMED ELIGIBLE FOR A DESIGNATION AS FAILING, THE COMMISSIONER SHALL APPOINT A DISTRICT REVIEW TEAM TO ASSESS AND

REPORT ON THE REASONS FOR THE CHRONIC UNDERPERFORMANCE AND THE PROSPECTS FOR IMPROVEMENT, UNLESS SUCH AN ASSESSMENT, WHICH IS DEEMED ADEQUATE BY THE COMMISSIONER, HAS BEEN PREVIOUSLY COMPLETED BY A DISTRICT REVIEW TEAM, INTEGRATED INTERVENTION TEAM OR DISTINGUISHED EDUCATOR WITHIN THE PREVIOUS YEAR.

(I) THE DISTRICT REVIEW TEAM SHALL HAVE THE MEMBERSHIP PRESCRIBED BY THE COMMISSIONER, PROVIDED THAT IT SHALL INCLUDE AT LEAST ONE PERSON WITH EXPERTISE IN THE EDUCATION OF ENGLISH LANGUAGE LEARNERS AND AT LEAST ONE PERSON WITH EXPERTISE IN THE EDUCATION OF STUDENTS WITH DISABILITIES.

(II) PURSUANT TO REGULATIONS ADOPTED BY THE COMMISSIONER, THE DISTRICT REVIEW TEAM SHALL EVALUATE THE PERFORMANCE OF THE DISTRICT BASED ON MULTIPLE INDICATORS OF DISTRICT QUALITY INCLUDING STUDENT ATTENDANCE, SHORT-TERM AND LONG-TERM SUSPENSION RATES, STUDENT PROMOTION AND GRADUATION RATES IN THE DISTRICT, OR THE LACK OF DEMONSTRATED SIGNIFICANT IMPROVEMENT FOR TWO OR MORE CONSECUTIVE YEARS IN ENGLISH LANGUAGE ARTS AND MATHEMATICS, EITHER IN THE AGGREGATE OR AMONG ALL THE STUDENT SUBGROUPS USED IN THE STATE'S ACCOUNTABILITY SYSTEM. THE DISTRICT REVIEW TEAM SHALL ALSO CONSIDER DISTRICT LEADERSHIP AND CAPACITY, SCHOOL LEADER PRACTICES AND DECISIONS, CURRICULUM DEVELOPMENT AND SUPPORT, TEACHER PRACTICES AND DECISIONS, STUDENT SOCIAL AND EMOTIONAL DEVELOPMENTAL HEALTH AND FAMILY AND COMMUNITY ENGAGEMENT.

(C) UPON REVIEW OF THE FINDINGS OF THE DISTRICT REVIEW TEAM, THE COMMISSIONER MAY DECLARE A DISTRICT AS FAILING. NOT MORE THAN TWO AND ONE-HALF PERCENT OF THE TOTAL NUMBER OF SCHOOL DISTRICTS WITHIN THE STATE MAY BE DESIGNATED AS FAILING AT ANY GIVEN TIME.

2. (A) UPON DESIGNATION AS A FAILING SCHOOL DISTRICT, THE COMMISSIONER SHALL APPOINT A RECEIVER FOR THE SCHOOL DISTRICT WHO SHALL POSSESS AND MAINTAIN ALL OF THE POWERS VESTED IN THE SUPERINTENDENT OF SCHOOLS, OR OTHER CHIEF SCHOOL OFFICER OF THE DISTRICT, AND THE BOARD OF EDUCATION, AND SHALL HAVE THE POWER TO SUPERSEDE ANY DECISION OF SUCH SUPERINTENDENT OR CHIEF SCHOOL OFFICER, OR OF THE BOARD OF EDUCATION. THE RECEIVER SHALL HAVE AUTHORITY TO REVIEW PROPOSED SCHOOL DISTRICT BUDGETS PRIOR TO PRESENTATION TO THE DISTRICT VOTERS, OR IN THE CASE OF A CITY SCHOOL DISTRICT IN A CITY HAVING A POPULATION OF ONE HUNDRED TWENTY-FIVE THOUSAND OR MORE OR THE ADOPTION OF A CONTINGENCY BUDGET, PRIOR TO APPROVAL BY THE BOARD OF EDUCATION, AND TO MODIFY THE PROPOSED BUDGET TO CONFORM TO THE DISTRICT TURNAROUND PLAN.

(B) THE COMMISSIONER SHALL CONTRACT WITH THE RECEIVER, AND THE COMPENSATION AND OTHER COSTS OF THE RECEIVER APPOINTED BY THE COMMISSIONER SHALL BE PAID FROM A STATE APPROPRIATION FOR SUCH PURPOSE, OR BY THE SCHOOL DISTRICT, AS DETERMINED BY THE COMMISSIONER. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE RECEIVER AND ANY OF ITS EMPLOYEES PROVIDING SERVICES IN THE RECEIVERSHIP SHALL BE ENTITLED TO DEFENSE AND INDEMNIFICATION BY THE SCHOOL DISTRICT TO THE SAME EXTENT AS A SCHOOL DISTRICT EMPLOYEE.

(C) THE RECEIVER SHALL BE A NON-PROFIT ENTITY, ANOTHER SCHOOL DISTRICT, OR AN INDIVIDUAL, WHO SHALL OPERATE INDEPENDENTLY, BUT WHOSE CONTRACT MAY BE TERMINATED BY THE COMMISSIONER FOR A VIOLATION OF LAW OR THE COMMISSIONER'S REGULATIONS OR FOR NEGLECT OF DUTY. AN EXTERNAL RECEIVER APPOINTED BY THE COMMISSIONER TO OPERATE A DISTRICT UNDER THIS SECTION SHALL HAVE FULL MANAGERIAL AND OPERATIONAL CONTROL OVER SUCH DISTRICT; PROVIDED, HOWEVER, THAT THE BOARD OF EDUCATION SHALL REMAIN THE EMPLOYER OF RECORD, AND PROVIDED FURTHER THAT ANY EMPLOYMENT DECISIONS OF THE BOARD OF EDUCATION MAY BE SUPERSEDED BY THE RECEIVER. IT SHALL BE THE DUTY OF THE BOARD OF EDUCATION AND THE SUPERINTENDENT OF

SCHOOLS TO FULLY COOPERATE WITH THE RECEIVER AND WILLFUL FAILURE TO COOPERATE OR INTERFERENCE WITH THE FUNCTIONS OF THE RECEIVER SHALL CONSTITUTE WILLFUL NEGLECT OF DUTY FOR PURPOSES OF SECTION THREE HUNDRED SIX OF THIS TITLE. THE RECEIVER OR THE RECEIVER'S DESIGNEE SHALL BE AN EX OFFICIO NON-VOTING MEMBER OF THE BOARD OF EDUCATION ENTITLED TO ATTEND ALL MEETINGS OF THE BOARD OF EDUCATION.

3. THE RECEIVER SHALL CREATE A DISTRICT TURNAROUND PLAN TO PROMOTE THE RAPID IMPROVEMENT OF THE FAILING DISTRICT AND SUBMIT IT TO THE COMMISSIONER FOR APPROVAL. THE PLAN SHALL SPECIFICALLY FOCUS ON THE SCHOOL OR SCHOOLS IN THE DISTRICT THAT HAVE BEEN IDENTIFIED AS BEING IN ACCOUNTABILITY STATUS UNDER THE STATE'S ACCOUNTABILITY SYSTEM AND THE DISTRICT POLICIES OR PRACTICES THAT HAVE CONTRIBUTED TO CHRONIC UNDERPERFORMANCE.

4. BEFORE CREATING THE DISTRICT TURNAROUND PLAN REQUIRED BY THIS SUBDIVISION, THE RECEIVER SHALL CONSULT WITH LOCAL STAKEHOLDERS, SUCH AS: (A) THE BOARD OF EDUCATION; (B) THE SUPERINTENDENT OF SCHOOLS; (C) BUILDING PRINCIPALS AND OTHER SCHOOL LEADERS; (D) TEACHERS AND THEIR COLLECTIVE BARGAINING REPRESENTATIVES; (E) SCHOOL ADMINISTRATORS AND THEIR COLLECTIVE BARGAINING REPRESENTATIVES; (F) PARENTS OF STUDENTS ATTENDING THE SCHOOL OR THEIR REPRESENTATIVES; (G) REPRESENTATIVES OF APPLICABLE STATE AND LOCAL SOCIAL SERVICES, HEALTH, AND/OR MENTAL HEALTH AGENCIES; (H) AS APPROPRIATE, REPRESENTATIVES OF LOCAL PROVIDERS OF CAREER AND TECHNICAL EDUCATION SERVICES, STATE OR LOCAL WORKFORCE DEVELOPMENT AGENCIES AND THE LOCAL BUSINESS COMMUNITY; (I) REPRESENTATIVES OF LOCAL PREKINDERGARTEN PROGRAMS; AND (J) REPRESENTATIVES FROM LOCAL INSTITUTIONS OF HIGHER EDUCATION.

5. (A) IN THE DEVELOPMENT OF THE DISTRICT TURNAROUND PLAN FOR A FAILING SCHOOL DISTRICT, THE RECEIVER SHALL INCLUDE MEASURES INTENDED TO MAXIMIZE THE RAPID IMPROVEMENT OF THE ACADEMIC ACHIEVEMENT OF STUDENTS IN THE DISTRICT AND SHALL ENSURE THAT THE PLAN ADDRESSES DISTRICT LEADERSHIP AND CAPACITY, SCHOOL LEADER PRACTICES AND DECISIONS, CURRICULUM DEVELOPMENT AND SUPPORT, TEACHER PRACTICES AND DECISIONS, STUDENT SOCIAL AND EMOTIONAL DEVELOPMENTAL WELL-BEING, HEALTH AND FAMILY AND COMMUNITY ENGAGEMENT. TO THE EXTENT PRACTICABLE, THE RECEIVER SHALL BASE THE PLAN ON STUDENT OUTCOME DATA, INCLUDING, BUT NOT LIMITED TO: (I) STUDENT ACHIEVEMENT GROWTH DATA BASED ON STATE ASSESSMENTS; (II) OTHER MEASURES OF STUDENT ACHIEVEMENT; (III) STUDENT PROMOTION AND GRADUATION RATES; (IV) ACHIEVEMENT AND GROWTH DATA FOR THE SUBGROUPS OF STUDENTS USED IN THE STATE'S ACCOUNTABILITY SYSTEM; (V) STUDENT ATTENDANCE; AND (VI) LONG-TERM AND SHORT-TERM SUSPENSION RATES.

(B) THE DISTRICT TURNAROUND PLAN SHALL, AFTER CONSIDERATION OF THE RECOMMENDATIONS MADE BY THE LOCAL STAKEHOLDER GROUP, INCLUDE THE FOLLOWING: (I) STEPS TO ADDRESS SOCIAL SERVICE, HEALTH AND MENTAL HEALTH NEEDS OF STUDENTS IN THE DISTRICT AND THEIR FAMILIES IN ORDER TO HELP STUDENTS ARRIVE AND REMAIN AT SCHOOL READY TO LEARN; PROVIDED, HOWEVER, THAT THIS MAY INCLUDE MENTAL HEALTH AND SUBSTANCE ABUSE SCREENING; (II) STEPS TO IMPROVE OR EXPAND ACCESS TO CHILD WELFARE SERVICES AND, AS APPROPRIATE, SERVICES IN THE SCHOOL DISTRICT COMMUNITY TO PROMOTE A SAFE AND SECURE LEARNING ENVIRONMENT; (III) AS APPLICABLE, STEPS TO PROVIDE GREATER ACCESS TO CAREER AND TECHNICAL EDUCATION AND WORKFORCE DEVELOPMENT SERVICES PROVIDED TO STUDENTS IN THE DISTRICT AND THEIR FAMILIES IN ORDER TO PROVIDE STUDENTS AND FAMILIES WITH MEANINGFUL EMPLOYMENT SKILLS AND OPPORTUNITIES; (IV) STEPS TO ADDRESS ACHIEVEMENT GAPS FOR ENGLISH LANGUAGE LEARNERS, STUDENTS WITH DISABILITIES AND ECONOMICALLY DISADVANTAGED STUDENTS, AS APPLICABLE; (V) STEPS TO ADDRESS SCHOOL CLIMATE AND POSITIVE BEHAVIOR SUPPORT; AND (VI) A BUDGET FOR THE DISTRICT TURNAROUND PLAN.

(C) AS NECESSARY, THE COMMISSIONERS OF THE DEPARTMENT OF HEALTH, THE OFFICE OF CHILDREN AND FAMILY SERVICES, THE DEPARTMENT OF LABOR AND OTHER APPLICABLE STATE AND LOCAL SOCIAL SERVICE, HEALTH, MENTAL HEALTH AND CHILD WELFARE OFFICIALS SHALL COORDINATE WITH THE COMMISSIONER REGARDING THE IMPLEMENTATION OF THE STRATEGIES DESCRIBED IN SUBPARAGRAPHS (I) THROUGH (III) OF PARAGRAPH (B) OF THIS SUBDIVISION THAT ARE INCLUDED IN THE DISTRICT TURNAROUND PLAN AND SHALL, SUBJECT TO APPROPRIATION, REASONABLY SUPPORT THE IMPLEMENTATION CONSISTENT WITH THE REQUIREMENTS OF STATE AND FEDERAL LAW APPLICABLE TO THE RELEVANT PROGRAMS THAT EACH SUCH OFFICIAL IS RESPONSIBLE FOR ADMINISTERING AND GRANT FAILING SCHOOLS PRIORITY ACCESS TO COMPETITIVE GRANTS TO THE EXTENT ALLOWABLE.

(D) IN ORDER TO ASSESS THE SCHOOL DISTRICT ACROSS MULTIPLE INDICATORS OF DISTRICT PERFORMANCE AND STUDENT SUCCESS, THE DISTRICT TURNAROUND PLAN SHALL INCLUDE, MEASURABLE ANNUAL GOALS INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING: (I) STUDENT ATTENDANCE; (II) SHORT-TERM AND LONG-TERM SUSPENSION RATES; (III) STUDENT SAFETY AND DISCIPLINE; (IV) STUDENT PROMOTION AND GRADUATION AND DROP-OUT RATES; (V) STUDENT ACHIEVEMENT AND GROWTH ON STATE ASSESSMENTS; (VI) PROGRESS IN AREAS OF ACADEMIC UNDERPERFORMANCE; (VII) PROGRESS AMONG THE SUBGROUPS OF STUDENTS USED IN THE STATE'S ACCOUNTABILITY SYSTEM; (VIII) REDUCTION OF ACHIEVEMENT GAPS AMONG DIFFERENT GROUPS OF STUDENTS; (IX) DEVELOPMENT OF COLLEGE AND CAREER READINESS, INCLUDING AT THE ELEMENTARY AND MIDDLE SCHOOL LEVELS; (X) PARENT AND FAMILY ENGAGEMENT; (XI) BUILDING A CULTURE OF ACADEMIC SUCCESS AMONG STUDENTS; (XII) BUILDING A CULTURE OF STUDENT SUPPORT AND SUCCESS AMONG FACULTY AND STAFF; AND (XIII) USING DEVELOPMENTALLY APPROPRIATE CHILD ASSESSMENTS FROM PRE-KINDERGARTEN THROUGH THIRD GRADE, IF APPLICABLE.

(E) NOTWITHSTANDING ANY OTHER APPLICABLE LAW TO THE CONTRARY, IN CREATING THE DISTRICT TURNAROUND PLAN, THE RECEIVER SHALL: (I) ESTABLISH COMMUNITY SCHOOLS AT SCHOOLS IN THE DISTRICT TO PROVIDE EXPANDED HEALTH, MENTAL HEALTH AND OTHER SERVICES TO THE COMMUNITY; (II) EXPAND, ALTER OR REPLACE THE CURRICULUM AND PROGRAM OFFERINGS OF THE DISTRICT OR OF A SCHOOL IN THE DISTRICT, INCLUDING THE IMPLEMENTATION OF RESEARCH-BASED EARLY LITERACY PROGRAMS, EARLY INTERVENTIONS FOR STRUGGLING READERS AND THE TEACHING OF ADVANCED PLACEMENT COURSES OR OTHER RIGOROUS NATIONALLY OR INTERNATIONALLY RECOGNIZED COURSES, IF THE DISTRICT OR SCHOOLS IN THE DISTRICT DO NOT ALREADY HAVE SUCH PROGRAMS OR COURSES; (III) REPLACE UNQUALIFIED TEACHERS AND ADMINISTRATORS, INCLUDING SCHOOL LEADERSHIP; (IV) PROVIDE FUNDS, SUBJECT TO APPROPRIATION TO INCREASE SALARIES OF CURRENT OR PROSPECTIVE TEACHERS OR ADMINISTRATORS IN THE DISTRICT WORKING IN A SCHOOL IN ACCOUNTABILITY STATUS; AND (V) ESTABLISH STEPS TO IMPROVE HIRING, INDUCTION, TEACHER EVALUATION, PROFESSIONAL DEVELOPMENT, TEACHER ADVANCEMENT, SCHOOL CULTURE AND ORGANIZATIONAL STRUCTURE.

IN ADDITION TO THESE INTERVENTIONS, THE RECEIVER MAY TAKE OTHER ACTIONS TO SUPPORT THE TURNAROUND PLAN INCLUDING BUT NOT LIMITED TO: (I) REALLOCATE THE USES OF THE EXISTING BUDGET OF THE DISTRICT; (II) EXPAND THE SCHOOL DAY OR SCHOOL YEAR OR BOTH OF SCHOOLS IN THE DISTRICT; (III) LIMIT, SUSPEND OR CHANGE ONE OR MORE PROVISIONS OF ANY CONTRACT OR COLLECTIVE BARGAINING AGREEMENT IN THE DISTRICT; PROVIDED, HOWEVER, THAT THE RECEIVER SHALL NOT REDUCE THE COMPENSATION OF AN ADMINISTRATOR, TEACHER OR STAFF MEMBER UNLESS THE HOURS OF THE PERSON ARE PROPORTIONATELY REDUCED; (IV) ADD FULL-DAY PRE-KINDERGARTEN AND FULL-DAY KINDERGARTEN PROGRAMS, IF THE DISTRICT DOES NOT ALREADY HAVE SUCH PROGRAMS; (V) DIRECT THE RECEIVER, IN ACCORDANCE WITH PARAGRAPHS (F) AND (G) OF THIS SUBDIVISION, TO ABOLISH THE POSITIONS OF ALL MEMBERS OF THE TEACH-

ING AND ADMINISTRATIVE AND SUPERVISORY STAFF ASSIGNED TO A SCHOOL DESIGNATED AS A FAILING SCHOOL PURSUANT TO SECTION TWO HUNDRED ELEVEN-F OF THIS PART, AND TERMINATE THE EMPLOYMENT OF ANY BUILDING PRINCIPAL ASSIGNED TO SUCH A SCHOOL AND REQUIRE THEM TO REAPPLY FOR THEIR POSITIONS IN THE DISTRICT, WITH FULL DISCRETION VESTED IN THE RECEIVER REGARDING ANY SUCH REAPPLICATIONS; (VI) INCLUDE A PROVISION OF JOB-EMBEDDED PROFESSIONAL DEVELOPMENT FOR TEACHERS IN THE DISTRICT, WITH AN EMPHASIS ON STRATEGIES THAT INVOLVE TEACHER INPUT AND FEEDBACK; (VII) ESTABLISH A PLAN FOR PROFESSIONAL DEVELOPMENT FOR ADMINISTRATORS IN THE DISTRICT, WITH AN EMPHASIS ON STRATEGIES THAT DEVELOP LEADERSHIP SKILLS AND USE THE PRINCIPLES OF DISTRIBUTIVE LEADERSHIP; AND/OR (VIII) ORDER THE CONVERSION OF A DISTRICT SCHOOL THAT HAS BEEN DESIGNATED AS FAILING PURSUANT TO SECTION TWO HUNDRED ELEVEN-F OF THIS PART WITHOUT A VOTE OF THE PARENTS OF THE SCHOOL, PROVIDED THAT NOTWITHSTANDING ANY OTHER PROVISION OF THE LAW TO THE CONTRARY, THE BOARD OF REGENTS SHALL BE THE CHARTER ENTITY FOR SUCH CHARTER SCHOOL AND THE PROVISIONS OF PARAGRAPH (B) AND SUBPARAGRAPH (I) OF PARAGRAPH (B-1) OF SUBDIVISION THREE OF SECTION TWENTY-EIGHT HUNDRED FIFTY-FOUR OF THIS CHAPTER SHALL NOT APPLY TO SUCH A CONVERSION CHARTER SCHOOL.

(F) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, UPON DESIGNATION OF A SCHOOL DISTRICT AS A FAILING SCHOOL DISTRICT PURSUANT TO SECTION TWO HUNDRED ELEVEN-G OF THIS PART, THE ABOLITION OF POSITIONS OF MEMBERS OF THE TEACHING AND ADMINISTRATIVE AND SUPERVISORY STAFF OF THE SCHOOL DISTRICT SHALL THEREAFTER BE GOVERNED BY THE APPLICABLE PROVISIONS OF SECTION TWENTY-FIVE HUNDRED TEN, TWENTY-FIVE HUNDRED EIGHTY-FIVE, TWENTY-FIVE HUNDRED EIGHTY-EIGHT OR THREE THOUSAND THIRTEEN OF THIS CHAPTER. A CLASSROOM TEACHER OR BUILDING PRINCIPAL WHO HAS RECEIVED TWO OR MORE COMPOSITE RATINGS OF INEFFECTIVE ON AN ANNUAL PROFESSIONAL PERFORMANCE REVIEW OR WHO HAS NEVER RECEIVED AN EFFECTIVE OR HIGHLY EFFECTIVE RATING ON SUCH A REVIEW SHALL BE DEEMED NOT TO HAVE RENDERED FAITHFUL AND COMPETENT SERVICE WITHIN THE MEANING OF SECTION TWENTY-FIVE HUNDRED TEN, TWENTY-FIVE HUNDRED EIGHTY-FIVE, TWENTY-FIVE HUNDRED EIGHTY-EIGHT OR THREE THOUSAND THIRTEEN OF THIS CHAPTER. WHEN A POSITION OF A CLASSROOM TEACHER OR BUILDING PRINCIPAL IS ABOLISHED, THE SERVICES OF THE TEACHER OR ADMINISTRATOR OR SUPERVISOR WITHIN THE TENURE AREA OF THE POSITION WITH THE LOWEST SCORE ON THE STATE GROWTH AND OTHER COMPARABLE MEASURES SUBCOMPONENT OF THE MOST RECENT ANNUAL PROFESSIONAL PERFORMANCE REVIEW SHALL BE DISCONTINUED, PROVIDED THAT SENIORITY WITHIN THE TENURE OF THE POSITION SHALL BE USED SOLELY TO DETERMINE WHICH POSITION SHOULD BE DISCONTINUED IN THE EVENT OF A TIE.

(G) THE RECEIVER MAY ABOLISH THE POSITIONS OF ALL MEMBERS OF THE TEACHING AND SUPERVISORY STAFF ASSIGNED TO A SCHOOL DESIGNATED AS FAILING PURSUANT TO SECTION TWO HUNDRED ELEVEN-F OF THIS PART, AND TERMINATE ANY BUILDING PRINCIPAL ASSIGNED TO SUCH SCHOOL WHO IS NOT IN A TENURED POSITION, AND REQUIRE THEM TO REAPPLY FOR PROBATIONARY APPOINTMENT. THE RECEIVER SHALL HAVE THE SAME DISCRETION UPON SUCH REAPPLICATION AS THE BOARD OF EDUCATION HAS WITH ANY CANDIDATE FOR A PROBATIONARY APPOINTMENT. A DETERMINATION OF THE RECEIVER NOT TO REHIRE A TEACHER, ADMINISTRATOR OR SUPERVISOR MAY BE APPEALED TO THE COMMISSIONER PURSUANT TO SECTION THREE HUNDRED TEN OF THIS TITLE, PROVIDED THAT SUCH DETERMINATION MAY ONLY BE SET ASIDE UPON A FINDING THAT THE RECEIVER'S DETERMINATION WAS MADE IN BAD FAITH OR FOR CONSTITUTIONAL OR STATUTORY REASONS. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A MEMBER OF THE TEACHING OR ADMINISTRATIVE STAFF WHO IS NOT REHIRED PURSUANT TO THIS PARAGRAPH SHALL NOT HAVE ANY RIGHT TO BUMP OR DISPLACE ANY OTHER PERSON

EMPLOYED BY THE DISTRICT, BUT SHALL BE PLACED ON A PREFERRED ELIGIBILITY LIST IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF SECTION TWENTY-FIVE HUNDRED TEN, TWENTY-FIVE HUNDRED EIGHTY-FIVE, TWENTY-FIVE HUNDRED EIGHTY-EIGHT OR THREE THOUSAND THIRTEEN OF THIS CHAPTER.

(H) FOR A DISTRICT WITH ENGLISH LANGUAGE LEARNERS, THE PROFESSIONAL DEVELOPMENT AND PLANNING TIME FOR TEACHERS AND ADMINISTRATORS IDENTIFIED IN SUBPARAGRAPHS (IX) THROUGH (XI), INCLUSIVE, OF PARAGRAPH (D) OF THIS SUBDIVISION SHALL INCLUDE SPECIFIC STRATEGIES AND CONTENT DESIGNED TO MAXIMIZE THE RAPID ACADEMIC ACHIEVEMENT OF ENGLISH LANGUAGE LEARNERS IN THE DISTRICT.

6. A FINAL DISTRICT TURNAROUND PLAN SHALL BE ISSUED BY THE RECEIVER WITHIN SIX MONTHS OF DESIGNATION OF THE DISTRICT AS A FAILING SCHOOL DISTRICT. A COPY OF SUCH PLAN SHALL BE PROVIDED TO THE BOARD OF EDUCATION, THE SUPERINTENDENT OF SCHOOLS AND THE COLLECTIVE BARGAINING REPRESENTATIVES OF TEACHERS AND ADMINISTRATORS OF THE SCHOOL DISTRICT. THE PLAN SHALL BE PUBLICLY AVAILABLE AND SHALL BE POSTED ON THE DEPARTMENT'S WEBSITE AND THE SCHOOL DISTRICT'S WEBSITE, AND THE SCHOOL DISTRICT SHALL PROVIDE NOTICE TO PARENTS OF SUCH DISTRICT TURNAROUND PLAN AND ITS AVAILABILITY.

7. THE DISTRICT TURNAROUND PLAN SHALL BE AUTHORIZED FOR A PERIOD OF NOT MORE THAN THREE YEARS. THE RECEIVER MAY DEVELOP ADDITIONAL COMPONENTS OF THE PLAN AND SHALL DEVELOP ANNUAL GOALS FOR EACH COMPONENT OF THE PLAN IN A MANNER CONSISTENT WITH THE PROVISIONS OF THIS SECTION. THE RECEIVER SHALL BE RESPONSIBLE FOR MEETING THE GOALS OF THE DISTRICT TURNAROUND PLAN.

8. THE RECEIVER SHALL PROVIDE A WRITTEN REPORT TO THE BOARD OF EDUCATION ON A QUARTERLY BASIS TO PROVIDE SPECIFIC INFORMATION ABOUT THE PROGRESS BEING MADE ON THE IMPLEMENTATION OF THE DISTRICT'S DISTRICT TURNAROUND PLAN. ONE OF THE QUARTERLY REPORTS SHALL BE THE ANNUAL EVALUATION REQUIRED IN SUBDIVISION NINE OF THIS SECTION.

9. THE COMMISSIONER SHALL EVALUATE THE PERFORMANCE OF THE RECEIVER ON NOT LESS THAN AN ANNUAL BASIS. THE PURPOSE OF SUCH EVALUATION SHALL BE TO ASSESS THE IMPLEMENTATION OF THE DISTRICT TURNAROUND PLAN AND DETERMINE WHETHER THE DISTRICT HAS MET THE ANNUAL GOALS CONTAINED IN THE DISTRICT TURNAROUND PLAN. THE EVALUATION SHALL BE IN WRITING AND SUBMITTED TO THE COMMISSIONER AND THE BOARD OF EDUCATION OF THE SCHOOL DISTRICT NO LATER THAN JULY FIRST FOR THE PRECEDING SCHOOL YEAR. IF THE COMMISSIONER DETERMINES THAT THE DISTRICT HAS MET THE ANNUAL PERFORMANCE GOALS STATED IN THE DISTRICT TURNAROUND PLAN, THE EVALUATION SHALL BE CONSIDERED SUFFICIENT AND THE IMPLEMENTATION OF THE DISTRICT TURNAROUND PLAN SHALL CONTINUE. IF THE COMMISSIONER DETERMINES THAT THE RECEIVER HAS NOT MET ONE OR MORE GOALS IN THE PLAN AND THE FAILURE TO MEET THE GOALS MAY BE CORRECTED THROUGH REASONABLE MODIFICATION OF THE PLAN, THE COMMISSIONER MAY REQUIRE THE RECEIVER TO AMEND THE DISTRICT TURNAROUND PLAN, AS NECESSARY. IF THE COMMISSIONER DETERMINES THAT THE RECEIVER HAS SUBSTANTIALLY FAILED TO MEET MULTIPLE GOALS IN THE DISTRICT TURNAROUND PLAN, THE COMMISSIONER MAY TERMINATE THE CONTRACT OF SUCH RECEIVER; PROVIDED, HOWEVER, THAT THE TERMINATION SHALL NOT OCCUR BEFORE THE COMPLETION OF THE FIRST FULL SCHOOL YEAR OF THE RECEIVERSHIP OF THE DISTRICT.

10. AFTER THE PERIOD OF RECEIVERSHIP, THE COMMISSIONER SHALL CONDUCT A REEVALUATION OF A DISTRICT'S STATUS AS FAILING PURSUANT TO THIS SECTION. THE COMMISSIONER SHALL ADOPT REGULATIONS PROVIDING FOR: THE REMOVAL OF A DESIGNATION OF A DISTRICT AS CHRONICALLY UNDERPERFORMING; AND THE TRANSFER OF THE OPERATION OF A CHRONICALLY UNDERPERFORMING DISTRICT FROM AN EXTERNAL RECEIVER BACK TO THE SUPERINTENDENT OF SCHOOLS AND THE BOARD

OF EDUCATION OF THE SCHOOL DISTRICT, BASED ON THE MEASURABLE IMPROVEMENT OF THE DISTRICT.

(A) THE REGULATIONS SHALL INCLUDE PROVISIONS TO ALLOW A DISTRICT TO RETAIN MEASURES ADOPTED IN A DISTRICT TURNAROUND PLAN FOR A TRANSITIONAL PERIOD IF, IN THE JUDGMENT OF THE COMMISSIONER, THE MEASURES WOULD CONTRIBUTE TO THE CONTINUED IMPROVEMENT OF THE DISTRICT. SUCH REGULATIONS SHALL ALSO INCLUDE PROVISIONS THAT CLEARLY IDENTIFY THE CONDITIONS UNDER WHICH SUCH A TRANSITIONAL PERIOD SHALL END AND THE POWERS GRANTED TO THE COMMISSIONER UNDER THIS SECTION SHALL CEASE TO APPLY TO A DISTRICT PREVIOUSLY DESIGNATED AS A FAILING SCHOOL DISTRICT.

(B) PURSUANT TO THE REGULATIONS PROMULGATED BY THE COMMISSIONER, AT ANY TIME AFTER A FAILING DISTRICT HAS BEEN PLACED IN RECEIVERSHIP, THE BOARD OF EDUCATION OF THE SCHOOL DISTRICT MAY PETITION THE COMMISSIONER FOR A DETERMINATION AS TO WHETHER THE DISTRICT TURNAROUND PLAN SHOULD BE MODIFIED OR ELIMINATED AND WHETHER THE SCHOOL DISTRICT SHALL NO LONGER BE DESIGNATED AS FAILING. THE BOARD OF EDUCATION OF A FAILING SCHOOL DISTRICT MAY SEEK REVIEW BY COMMISSIONER FOLLOWING AN ADVERSE DETERMINATION.

(C) IF, PURSUANT TO THE REGULATIONS ADOPTED BY THE COMMISSIONER, A DISTRICT HAS NOT IMPROVED SUFFICIENTLY TO REMOVE THE DESIGNATION OF THE DISTRICT AS FAILING, THE COMMISSIONER MAY: (I) JOINTLY DETERMINE SUBSEQUENT ANNUAL GOALS FOR EACH COMPONENT OF THE DISTRICT TURNAROUND PLAN WITH THE RECEIVER AND RENEW THE DISTRICT TURNAROUND PLAN FOR AN ADDITIONAL PERIOD OF NOT MORE THAN THREE YEARS; OR (II) TERMINATE THE CONTRACT OF THE RECEIVER, APPOINT A NEW RECEIVER AND CREATE A NEW OR MODIFIED DISTRICT TURNAROUND PLAN, CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION.

S 2. The education law is amended by adding a new section 211-f to read as follows:

S 211-F. TAKE OVER AND RESTRUCTURING FAILING SCHOOLS. 1. (A) THE COMMISSIONER SHALL DESIGNATE AS FAILING EACH OF THE SCHOOLS THAT HAVE BEEN IDENTIFIED UNDER THE STATE'S ACCOUNTABILITY SYSTEM TO BE AMONG THE LOWEST ACHIEVING FIVE PERCENT OF PUBLIC SCHOOLS IN THE STATE (PRIORITY SCHOOLS) FOR AT LEAST THREE YEARS BASED UPON MEASURES OF STUDENT ACHIEVEMENT AND OUTCOMES AND A METHODOLOGY PRESCRIBED IN THE REGULATIONS OF THE COMMISSIONER, PROVIDED THAT THIS LIST SHALL NOT INCLUDE SCHOOLS WITHIN A SPECIAL ACT SCHOOL DISTRICT AS DEFINED IN SUBDIVISION EIGHT OF SECTION FOUR THOUSAND ONE OF THIS CHAPTER OR SCHOOLS CHARTERED PURSUANT TO ARTICLE FIFTY-SIX OF THIS CHAPTER.

(B) A FAILING SCHOOL SHALL OPERATE IN ACCORDANCE WITH LAWS REGULATING OTHER PUBLIC SCHOOLS, EXCEPT AS SUCH PROVISIONS MAY CONFLICT WITH THIS SECTION OR ANY SCHOOL INTERVENTION PLANS CREATED THEREUNDER.

(C) UPON THE DESIGNATION OF A SCHOOL AS A FAILING SCHOOL IN ACCORDANCE WITH REGULATIONS DEVELOPED PURSUANT TO THIS SECTION, THE COMMISSIONER SHALL APPOINT AN EXTERNAL RECEIVER TO MANAGE AND OPERATE THE SCHOOL AND TO DEVELOP AND IMPLEMENT A SCHOOL INTERVENTION PLAN FOR THE SCHOOL. THE COMMISSIONER SHALL MAKE SUCH APPOINTMENTS AS EXPEDITIOUSLY AS POSSIBLE, AND IN PRIORITIZING SCHOOLS FOR APPOINTMENTS THE COMMISSIONER SHALL GIVE PRIORITY BASED ON THE SEVERITY AND DURATION OF THE SCHOOL'S DEFICIENCIES IN STUDENT ACHIEVEMENT AND OUTCOMES.

2. (A) THE RECEIVER SHALL BE AUTHORIZED TO MANAGE AND OPERATE THE FAILING SCHOOL AND SHALL HAVE THE POWER TO SUPERSEDE ANY DECISION OF THE SUPERINTENDENT OF SCHOOLS OR CHIEF SCHOOL OFFICER, OR OF THE BOARD OF EDUCATION OR OF THE BUILDING PRINCIPAL THAT IN THE JUDGMENT OF THE RECEIVER CONFLICTS WITH THE SCHOOL IMPROVEMENT PLAN. THE RECEIVER SHALL HAVE AUTHORITY TO REVIEW PROPOSED SCHOOL DISTRICT BUDGETS PRIOR TO PRES-

ENTATION TO THE DISTRICT VOTERS, OR IN THE CASE OF A CITY SCHOOL DISTRICT IN A CITY HAVING A POPULATION OF ONE HUNDRED TWENTY-FIVE THOUSAND OR MORE OR THE ADOPTION OF A CONTINGENCY BUDGET, PRIOR TO APPROVAL BY THE BOARD OF EDUCATION, AND TO MODIFY THE PROPOSED BUDGET TO CONFORM TO THE SCHOOL INTERVENTION PLAN.

(B) THE PROVISIONS OF PARAGRAPHS (B) AND (C) OF SUBDIVISION TWO OF SECTION TWO HUNDRED ELEVEN-G OF THIS PART SHALL APPLY TO RECEIVERS APPOINTED PURSUANT TO THIS SECTION.

3. BEFORE DEVELOPING THE SCHOOL INTERVENTION PLAN, THE RECEIVER SHALL CONSULT WITH LOCAL STAKEHOLDERS SUCH AS: (A) THE BOARD OF EDUCATION; (B) THE SUPERINTENDENT OF SCHOOLS; (C) THE BUILDING PRINCIPAL; (D) TEACHERS ASSIGNED TO THE SCHOOL AND THEIR COLLECTIVE BARGAINING REPRESENTATIVE; (E) SCHOOL ADMINISTRATORS ASSIGNED TO THE SCHOOL AND THEIR COLLECTIVE BARGAINING REPRESENTATIVE; (F) PARENTS OF STUDENTS ATTENDING THE SCHOOL OR THEIR REPRESENTATIVES; (G) REPRESENTATIVES OF APPLICABLE STATE AND LOCAL SOCIAL SERVICE, HEALTH AND MENTAL HEALTH AGENCIES; (H) AS APPROPRIATE, REPRESENTATIVES OF LOCAL CAREER EDUCATION PROVIDERS, STATE AND LOCAL WORKFORCE DEVELOPMENT AGENCIES AND THE LOCAL BUSINESS COMMUNITY; (I) FOR ELEMENTARY SCHOOLS, REPRESENTATIVES OF LOCAL PREKINDERGARTEN PROGRAMS AND, (J) AS NEEDED FOR MIDDLE SCHOOLS OR HIGH SCHOOLS, REPRESENTATIVES OF LOCAL HIGHER EDUCATION INSTITUTIONS.

4. IN CREATING THE SCHOOL INTERVENTION PLAN, THE RECEIVER SHALL INCLUDE PROVISIONS INTENDED TO MAXIMIZE THE RAPID ACADEMIC ACHIEVEMENT OF STUDENTS AT THE SCHOOL AND SHALL ENSURE THAT THE PLAN ADDRESSES DISTRICT LEADERSHIP AND CAPACITY, SCHOOL LEADER PRACTICES AND DECISIONS, CURRICULUM DEVELOPMENT AND SUPPORT, TEACHER PRACTICES AND DECISIONS, STUDENT SOCIAL AND EMOTIONAL DEVELOPMENTAL HEALTH AND FAMILY AND COMMUNITY ENGAGEMENT. THE RECEIVER SHALL, TO THE EXTENT PRACTICABLE, BASE THE PLAN ON THE FINDINGS OF ANY RECENT DIAGNOSTIC REVIEW OR ASSESSMENT OF THE SCHOOL THAT HAS BEEN CONDUCTED AND, AS APPLIED TO THE SCHOOL, STUDENT OUTCOME DATA AS SPECIFIED IN PARAGRAPH (A) OF SUBDIVISION FIVE OF SECTION TWO HUNDRED ELEVEN-G OF THIS PART.

5. (A) THE RECEIVER SHALL ADDRESS IN THE SCHOOL INTERVENTION PLAN THE STRATEGIES SET FORTH IN PARAGRAPH (B) OF SUBDIVISION FIVE OF SECTION TWO HUNDRED ELEVEN-G OF THIS PART, AS APPLIED TO THE SCHOOL, EXCEPT THAT INSTEAD OF THE SCHOOL DISTRICT BUDGET, THE SCHOOL INTERVENTION PLAN SHALL INCLUDE A FINANCIAL PLAN.

(B) AS NECESSARY, THE COMMISSIONERS OF THE DEPARTMENT OF HEALTH, THE OFFICE OF CHILDREN AND FAMILY SERVICES, THE DEPARTMENT OF LABOR AND OTHER APPLICABLE STATE AND LOCAL SOCIAL SERVICE, HEALTH, MENTAL HEALTH AND CHILD WELFARE OFFICIALS SHALL COORDINATE WITH THE RECEIVER REGARDING THE IMPLEMENTATION OF THE STRATEGIES DESCRIBED IN SUBPARAGRAPHS (I) THROUGH (III) OF PARAGRAPH (B) OF SUBDIVISION FIVE OF SECTION TWO HUNDRED ELEVEN-G OF THIS PART THAT ARE INCLUDED IN THE SCHOOL INTERVENTION PLAN AND SHALL, SUBJECT TO APPROPRIATION, REASONABLY SUPPORT THE IMPLEMENTATION CONSISTENT WITH THE REQUIREMENTS OF STATE AND FEDERAL LAW APPLICABLE TO THE RELEVANT PROGRAMS THAT EACH SUCH OFFICIAL IS RESPONSIBLE FOR ADMINISTERING, AND GRANT COMMUNITY SCHOOLS ACCESS TO COMPETITIVE GRANTS, AS ALLOWABLE.

6. IN ORDER TO ASSESS THE SCHOOL ACROSS MULTIPLE MEASURES OF SCHOOL PERFORMANCE AND STUDENT SUCCESS, THE SCHOOL INTERVENTION PLAN SHALL INCLUDE MEASURABLE ANNUAL GOALS, AS SET FORTH IN PARAGRAPH (D) OF SUBDIVISION FIVE OF SECTION TWO HUNDRED ELEVEN-G OF THIS PART, THAT ARE TAILORED TO THE NEEDS OF THE SCHOOL.

7. (A) NOTWITHSTANDING ANY GENERAL OR SPECIAL LAW TO THE CONTRARY, IN CREATING AND IMPLEMENTING THE SCHOOL INTERVENTION PLAN, THE RECEIVER

SHALL, AFTER CONSULTING WITH STAKEHOLDERS: (I) CONVERT SCHOOLS TO COMMUNITY SCHOOLS TO PROVIDE EXPANDED HEALTH, MENTAL HEALTH AND OTHER SERVICES TO THE COMMUNITY; (II) EXPAND, ALTER OR REPLACE THE CURRICULUM AND PROGRAM OFFERINGS OF THE SCHOOL, INCLUDING THE IMPLEMENTATION OF RESEARCH-BASED EARLY LITERACY PROGRAMS, EARLY INTERVENTIONS FOR STRUGGLING READERS AND THE TEACHING OF ADVANCED PLACEMENT COURSES OR OTHER RIGOROUS NATIONALLY OR INTERNATIONALLY RECOGNIZED COURSES, IF THE SCHOOL DOES NOT ALREADY HAVE SUCH PROGRAMS OR COURSES; (III) REPLACE UNQUALIFIED TEACHERS AND ADMINISTRATORS, INCLUDING SCHOOL LEADERSHIP; (IV) INCREASE SALARIES OF CURRENT OR PROSPECTIVE TEACHERS AND ADMINISTRATORS; AND (V) IMPROVED HIRING, INDUCTION, TEACHER EVALUATION, PROFESSIONAL DEVELOPMENT, TEACHER ADVANCEMENT, SCHOOL CULTURE AND ORGANIZATIONAL STRUCTURE.

IN ADDITION TO THE ABOVE INTERVENTIONS, THE RECEIVER MAY ALSO: (I) REALLOCATE THE USES OF THE EXISTING BUDGET OF THE SCHOOL; (II) EXPAND THE SCHOOL DAY OR SCHOOL YEAR OR BOTH OF THE SCHOOL; (III) FOR A SCHOOL THAT OFFERS THE FIRST GRADE, ADD PRE-KINDERGARTEN AND FULL-DAY KINDERGARTEN CLASSES, IF THE SCHOOL DOES NOT ALREADY HAVE SUCH CLASSES; (IV) LIMIT, SUSPEND, OR CHANGE ONE OR MORE PROVISIONS OF ANY CONTRACT OR COLLECTIVE BARGAINING AGREEMENT, AS THE CONTRACT OR AGREEMENT APPLIES TO THE SCHOOL; PROVIDED, HOWEVER, THAT THE RECEIVER SHALL NOT REDUCE THE COMPENSATION OF AN ADMINISTRATOR, TEACHER OR STAFF MEMBER UNLESS THE HOURS OF THE PERSON ARE PROPORTIONATELY REDUCED; AND PROVIDED FURTHER, THAT UPON REQUEST OF THE RECEIVER THE PUBLIC EMPLOYMENT RELATIONS BOARD SHALL REQUIRE THE BOARD OF EDUCATION AND ANY APPLICABLE COLLECTIVE BARGAINING REPRESENTATIVES TO BARGAIN IN GOOD FAITH FOR AT LEAST THIRTY DAYS BEFORE EXERCISING AUTHORITY PURSUANT TO THIS CLAUSE; (V) IN ACCORDANCE WITH PARAGRAPHS (B) AND (C) OF THIS SUBDIVISION, TO ABOLISH THE POSITIONS OF ALL MEMBERS OF THE TEACHING AND ADMINISTRATIVE AND SUPERVISORY STAFF ASSIGNED TO THE FAILING SCHOOL AND TERMINATE THE EMPLOYMENT OF ANY BUILDING PRINCIPAL ASSIGNED TO SUCH A SCHOOL, AND REQUIRE THEM TO REAPPLY FOR THEIR POSITIONS IN THE DISTRICT; (VI) INCLUDE A PROVISION OF JOB-EMBEDDED PROFESSIONAL DEVELOPMENT FOR TEACHERS AT THE SCHOOL, WITH AN EMPHASIS ON STRATEGIES THAT INVOLVE TEACHER INPUT AND FEEDBACK; (VII) ESTABLISH A PLAN FOR PROFESSIONAL DEVELOPMENT FOR ADMINISTRATORS AT THE SCHOOL, WITH AN EMPHASIS ON STRATEGIES THAT DEVELOP LEADERSHIP SKILLS AND USE THE PRINCIPLES OF DISTRIBUTIVE LEADERSHIP; AND/OR (VIII) ORDER THE CONVERSION OF A DISTRICT SCHOOL THAT HAS BEEN DESIGNATED AS FAILING PURSUANT TO THIS SECTION WITHOUT A VOTE OF THE PARENTS OF THE SCHOOL, PROVIDED THAT NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE BOARD OF REGENTS SHALL BE THE CHARTER ENTITY FOR SUCH CHARTER SCHOOL AND THE PROVISIONS OF PARAGRAPH (B) AND SUBPARAGRAPH (I) OF PARAGRAPH (B-1) OF SUBDIVISION THREE OF SECTION TWENTY-EIGHT HUNDRED FIFTY-FOUR OF THIS CHAPTER SHALL NOT APPLY TO SUCH A CONVERSION CHARTER SCHOOL.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, UPON DESIGNATION OF ANY SCHOOL OF THE SCHOOL DISTRICT AS A FAILING SCHOOL PURSUANT TO THIS SECTION, THE ABOLITION OF POSITIONS OF MEMBERS OF THE TEACHING AND ADMINISTRATIVE AND SUPERVISORY STAFF OF THE SCHOOL DISTRICT SHALL THEREAFTER BE GOVERNED BY THE APPLICABLE PROVISIONS OF SECTION TWENTY-FIVE HUNDRED TEN, TWENTY-FIVE HUNDRED EIGHTY-FIVE, TWENTY-FIVE HUNDRED EIGHTY-EIGHT OR THREE THOUSAND THIRTEEN OF THIS CHAPTER AS MODIFIED BY THIS PARAGRAPH. A CLASSROOM TEACHER OR BUILDING PRINCIPAL WHO HAS RECEIVED TWO OR MORE COMPOSITE RATINGS OF INEFFECTIVE ON AN ANNUAL PROFESSIONAL PERFORMANCE REVIEW OR WHO HAS NEVER RECEIVED AN EFFECTIVE OR HIGHLY EFFECTIVE RATING ON SUCH A REVIEW

SHALL BE DEEMED NOT TO HAVE RENDERED FAITHFUL AND COMPETENT SERVICE WITHIN THE MEANING OF SECTION TWENTY-FIVE HUNDRED TEN, TWENTY-FIVE HUNDRED EIGHTY-FIVE, TWENTY-FIVE HUNDRED EIGHTY-EIGHT OR THREE THOUSAND THIRTEEN OF THIS CHAPTER. WHEN A POSITION OF A CLASSROOM TEACHER OR BUILDING PRINCIPAL IS ABOLISHED, THE SERVICES OF THE TEACHER OR ADMINISTRATOR OR SUPERVISOR WITHIN THE TENURE AREA OF THE POSITION WITH THE LOWEST SCORE ON THE STATE GROWTH AND OTHER COMPARABLE MEASURES SUBCOMPONENT OF THE MOST RECENT ANNUAL PROFESSIONAL PERFORMANCE REVIEW SHALL BE DISCONTINUED, PROVIDED THAT SENIORITY WITHIN THE TENURE OF THE POSITION SHALL BE USED SOLELY TO DETERMINE WHICH POSITION SHOULD BE DISCONTINUED IN THE EVENT OF A TIE.

(C) THE RECEIVER MAY ABOLISH THE POSITIONS OF ALL MEMBERS OF THE TEACHING AND SUPERVISORY STAFF ASSIGNED TO A SCHOOL DESIGNATED AS FAILING PURSUANT TO THIS SECTION, AND TERMINATE ANY BUILDING PRINCIPAL ASSIGNED TO SUCH SCHOOL WHO IS NOT IN A TENURED POSITION, AND REQUIRE THEM TO REAPPLY FOR A PROBATIONARY APPOINTMENT. THE BOARD SHALL HAVE THE SAME DISCRETION UPON SUCH REAPPLICATION AS IT HAS WITH ANY CANDIDATE FOR A PROBATIONARY APPOINTMENT. A DETERMINATION OF THE BOARD NOT TO REHIRE A TEACHER, ADMINISTRATOR OR SUPERVISOR MAY BE APPEALED TO THE COMMISSIONER PURSUANT TO SECTION THREE HUNDRED TEN OF THIS TITLE, PROVIDED THAT SUCH DETERMINATION MAY ONLY BE SET ASIDE UPON A FINDING THAT THE BOARD'S DETERMINATION WAS MADE IN BAD FAITH OR FOR CONSTITUTIONALLY OR STATUTORILY IMPERMISSIBLE REASONS. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A MEMBER OF THE TEACHING OR ADMINISTRATIVE STAFF WHO IS NOT REHIRED PURSUANT TO THIS PARAGRAPH SHALL NOT HAVE ANY RIGHT TO BUMP OR DISPLACE ANY OTHER PERSON EMPLOYED BY THE DISTRICT, BUT SHALL BE PLACED ON A PREFERRED ELIGIBILITY LIST IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF SECTION TWENTY-FIVE HUNDRED TEN, TWENTY-FIVE HUNDRED EIGHTY-FIVE, TWENTY-FIVE HUNDRED EIGHTY-EIGHT OR THREE THOUSAND THIRTEEN OF THIS CHAPTER.

(D) FOR A SCHOOL WITH ENGLISH LANGUAGE LEARNERS, THE PROFESSIONAL DEVELOPMENT AND PLANNING TIME FOR TEACHERS AND ADMINISTRATORS IDENTIFIED IN CLAUSES (VI) THROUGH (VIII) OF THE CLOSING PARAGRAPH OF PARAGRAPH (A) OF THIS SUBDIVISION, SHALL INCLUDE SPECIFIC STRATEGIES AND CONTENT DESIGNED TO MAXIMIZE THE RAPID ACADEMIC ACHIEVEMENT OF THE ENGLISH LANGUAGE LEARNERS.

(E) IF THE RECEIVER PROPOSES TO REALLOCATE FUNDS TO THE SCHOOL FROM THE BUDGET OF THE DISTRICT UNDER CLAUSE (I) OF THE CLOSING PARAGRAPH OF PARAGRAPH (A) OF THIS SUBDIVISION, THE RECEIVER SHALL NOTIFY THE BOARD OF EDUCATION, IN WRITING, OF THE AMOUNT OF AND RATIONALE FOR THE REALLOCATION.

8. A FINAL SCHOOL INTERVENTION PLAN SHALL BE ISSUED BY THE RECEIVER WITHIN SIX MONTHS OF DESIGNATION OF THE SCHOOL AS A FAILING SCHOOL. A COPY OF SUCH PLAN SHALL BE PROVIDED TO THE BOARD OF EDUCATION, THE SUPERINTENDENT OF SCHOOLS AND THE COLLECTIVE BARGAINING REPRESENTATIVES OF TEACHERS AND ADMINISTRATORS OF THE SCHOOL DISTRICT. THE PLAN SHALL BE PUBLICLY AVAILABLE AND SHALL BE POSTED ON THE DEPARTMENT'S WEBSITE AND THE SCHOOL DISTRICT'S WEBSITE, AND THE SCHOOL DISTRICT SHALL PROVIDE NOTICE TO PARENTS OF SUCH SCHOOL INTERVENTION PLAN AND ITS AVAILABILITY.

9. EACH SCHOOL INTERVENTION PLAN SHALL BE AUTHORIZED FOR A PERIOD OF NOT MORE THAN THREE YEARS. THE EXTERNAL RECEIVER, AS APPLICABLE, MAY DEVELOP ADDITIONAL COMPONENTS OF THE PLAN AND SHALL DEVELOP ANNUAL GOALS FOR EACH COMPONENT OF THE PLAN IN A MANNER CONSISTENT WITH THIS SECTION, ALL OF WHICH MUST BE APPROVED BY THE COMMISSIONER. THE EXTERNAL RECEIVER, AS APPLICABLE, SHALL BE RESPONSIBLE FOR MEETING THE GOALS OF THE SCHOOL INTERVENTION PLAN.

10. THE EXTERNAL RECEIVER SHALL PROVIDE A WRITTEN REPORT TO THE BOARD OF EDUCATION ON A QUARTERLY BASIS TO PROVIDE SPECIFIC INFORMATION ABOUT THE PROGRESS BEING MADE ON THE IMPLEMENTATION OF THE SCHOOL'S SCHOOL INTERVENTION PLAN. ONE OF THE QUARTERLY REPORTS SHALL BE THE ANNUAL EVALUATION UNDER SUBDIVISION ELEVEN OF THIS SECTION.

11. (A) THE COMMISSIONER SHALL EVALUATE EACH FAILING SCHOOL AT LEAST ANNUALLY. THE PURPOSE OF THE EVALUATION SHALL BE TO DETERMINE WHETHER THE SCHOOL HAS MET THE ANNUAL GOALS IN ITS SCHOOL INTERVENTION PLAN AND ASSESS THE IMPLEMENTATION OF THE PLAN AT THE SCHOOL. THE REVIEW SHALL BE IN WRITING AND SHALL BE SUBMITTED TO THE SUPERINTENDENT AND THE BOARD OF EDUCATION NOT LATER THAN JULY FIRST FOR THE PRECEDING SCHOOL YEAR. THE REVIEW SHALL BE SUBMITTED IN A FORMAT DETERMINED BY THE COMMISSIONER.

(B) IF THE COMMISSIONER DETERMINES THAT THE SCHOOL HAS MET THE ANNUAL PERFORMANCE GOALS STATED IN THE SCHOOL INTERVENTION PLAN, THE REVIEW SHALL BE CONSIDERED SUFFICIENT AND THE IMPLEMENTATION OF THE SCHOOL INTERVENTION PLAN SHALL CONTINUE. IF THE COMMISSIONER DETERMINES THAT THE SCHOOL HAS NOT MET ONE OR MORE GOALS IN THE PLAN, THE COMMISSIONER MAY MODIFY THE PLAN.

12. UPON THE EXPIRATION OF A SCHOOL INTERVENTION PLAN FOR A FAILING SCHOOL, THE COMMISSIONER SHALL CONDUCT A REVIEW OF THE SCHOOL TO DETERMINE WHETHER THE SCHOOL HAS IMPROVED SUFFICIENTLY, REQUIRES FURTHER IMPROVEMENT OR HAS FAILED TO IMPROVE. ON THE BASIS OF SUCH REVIEW, THE COMMISSIONER MAY: (A) ON THE BASIS OF THE EXTERNAL RECEIVER'S PROGRESS IN SUCCESSFULLY MEETING THE TERMS OF THE PLAN, RENEW THE PLAN WITH THE EXTERNAL RECEIVER FOR AN ADDITIONAL PERIOD OF NOT MORE THAN THREE YEARS; (B) IF THE FAILING SCHOOL REMAINS FAILING AND THE TERMS OF THE PLAN HAVE NOT BEEN SUBSTANTIALLY MET, TERMINATE THE CONTRACT WITH THE RECEIVER AND APPOINT A NEW EXTERNAL RECEIVER; OR (C) DETERMINE THAT THE SCHOOL HAS IMPROVED SUFFICIENTLY FOR THE DESIGNATION OF FAILING TO BE REMOVED.

13. THE COMMISSIONER SHALL BE AUTHORIZED TO ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION.

14. THE COMMISSIONER SHALL REPORT ANNUALLY TO THE GOVERNOR AND THE LEGISLATURE ON THE IMPLEMENTATION AND FISCAL IMPACT OF THIS SECTION AND SECTION TWO HUNDRED ELEVEN-G OF THIS PART. THE REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO, A LIST OF ALL SCHOOLS CURRENTLY DESIGNATED AS FAILING, A LIST OF ALL DISTRICTS CURRENTLY DESIGNATED AS FAILING, AND THE STRATEGIES USED IN EACH OF THE SCHOOLS AND DISTRICTS TO MAXIMIZE THE RAPID ACADEMIC ACHIEVEMENT OF STUDENTS.

S 3. This act shall take effect July 1, 2015; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized and directed to be made and completed on or before such date.

SUBPART E

Section 1. Subdivision 7-a of section 305 of the education law, as added by chapter 296 of the laws of 2008, is amended to read as follows:

7-a. a. In addition to the authority to revoke and annul a certificate of qualification of a teacher in a proceeding brought pursuant to subdivision seven of this section, the commissioner shall be authorized, and it shall be his or her duty, to revoke and annul in accordance with this subdivision the teaching certificate of a teacher convicted of a sex offense for which registration as a sex offender is required pursuant to article six-C of the correction law OR OF ANY OTHER VIOLENT FELONY OFFENSE IN WHICH A CHILD WAS A VICTIM.

b. As used in this subdivision, the following terms shall have the following meanings:

(1) "conviction" means any conviction whether by plea of guilty or nolo contendere or from a verdict after trial or otherwise;

(2) "sex offense" means an offense set forth in subdivision two or three of section one hundred sixty-eight-a of the correction law, including an offense committed in any jurisdiction for which the offender is required to register as a sex offender in New York;

(3) "teacher" means any professional educator holding a teaching certificate as defined in subparagraph four of this paragraph, including but not limited to a classroom teacher, teaching assistant, pupil personnel services professional, school administrator or supervisor or superintendent of schools; [and]

(4) "teaching certificate" means the certificate or license or other certificate of qualification granted to a teacher by any authority whatsoever; AND

(5) "VIOLENT FELONY OFFENSE" MEANS ANY OFFENSE AS DEFINED IN SUBDIVISION ONE OF SECTION 70.02 OF THE PENAL LAW.

c. Upon receipt of a certified copy of a criminal history record showing that a teacher has been convicted of a sex offense or sex offenses OR A VIOLENT FELONY OFFENSE IN WHICH A CHILD WAS A VICTIM or upon receipt of notice of such a conviction as provided in paragraph d of this subdivision, the commissioner shall automatically revoke and annul the teaching certificate of such teacher without the right to a hearing. The commissioner shall mail notice of the revocation and annulment pursuant to this subdivision by certified mail, return receipt requested, and by first-class mail directed to the teacher at such teacher's last known address and, if different, the last address filed by the certificate holder with the commissioner and to the teacher's counsel of record in the criminal proceeding as reported in the notice pursuant to paragraph d of this subdivision. Such notice shall inform the teacher that his or her certificate has been revoked and annulled, identify the sex offense or sex offenses OR VIOLENT FELONY OFFENSE OR OFFENSES IN WHICH A CHILD WAS A VICTIM of which the teacher has been convicted and shall set forth the procedure to follow if the teacher denies he or she is the person who has been so convicted. If such teacher notifies the commissioner in writing within twenty-five days after the date of receipt of the notice that he or she is not the same person as the convicted offender identified in the criminal record or identified pursuant to paragraph d of this subdivision, provides proof to reasonably support such claim and the commissioner is satisfied the proof establishes such claim, the commissioner shall, within five business days of the receipt of such proof, restore such teacher's teaching certificate retroactive to the date of revocation and annulment.

d. Upon conviction of a teacher of a sex offense defined in this subdivision, the district attorney or other prosecuting authority who obtained such conviction shall provide notice of such conviction to the commissioner identifying the sex offense or sex offenses OR VIOLENT FELONY OFFENSE OR OFFENSES IN WHICH A CHILD WAS A VICTIM of which the teacher has been convicted, the name and address of such offender and other identifying information prescribed by the commissioner, including the offender's date of birth and social security number, to the extent consistent with federal and state laws governing personal privacy and confidentiality of information. Such notice shall also include the name and business address of the offender's counsel of record in the criminal proceeding.

e. Upon receipt of proof that the conviction or convictions that formed the basis for revocation and annulment of the teacher's teaching certificate pursuant to this subdivision have been set aside upon appeal or otherwise reversed, vacated or annulled, the commissioner shall be required to conduct a due process hearing pursuant to subdivision seven of this section and part eighty-three of title eight of the New York codes, rules and regulations prior to making a determination as to whether to reinstate the teacher's original teaching certificate. Such determination shall be made within ninety days after such proof has been received.

f. Except as provided in paragraph g of this subdivision, and notwithstanding any other provision of law to the contrary, a teacher shall be reinstated to his or her position of employment in a public school, with full back pay and benefits from the date his or her certificate was revoked or annulled to the date of such reinstatement, under the following circumstances:

(i) The termination of employment was based solely on the conviction of a sex offense, OR CONVICTION OF A VIOLENT FELONY OFFENSE OR OFFENSES IN WHICH A CHILD WAS A VICTIM, or the revocation or annulment of a certificate based on such conviction, and such conviction has been set aside on appeal or otherwise reversed, vacated or annulled and the commissioner has reinstated the teacher's certification pursuant to paragraph e of this subdivision; or

(ii) The termination of employment was based solely on the conviction of a sex offense OR VIOLENT FELONY OFFENSE OR OFFENSES IN WHICH A CHILD WAS A VICTIM and it has been determined that the teacher is not the same person as the convicted offender.

g. If a teacher's employment was terminated as a result of a disciplinary proceeding conducted pursuant to section three thousand twenty-a of this chapter or other disciplinary hearing conducted pursuant to any collective bargaining or contractual agreement on one or more grounds other than conviction of a sex offense, or the revocation or annulment of a certificate based on such conviction, then nothing in paragraph f of this subdivision shall require a school district to reinstate employment of such teacher or be liable for back pay or benefits.

h. No provision of this article shall be deemed to preclude the following: (i) the commissioner from conducting a due process hearing pursuant to subdivision seven of this section and part eighty-three of title eight of the New York codes, rules and regulations; or (ii) a school district or employing board from bringing a disciplinary proceeding pursuant to section three thousand twenty-a of this chapter; or (iii) a school district or employing board from bringing an alternative disciplinary proceeding conducted pursuant to a collective bargaining or contractual agreement.

i. The commissioner shall be authorized to promulgate any regulations necessary to implement the provisions of this subdivision.

S 2. Subdivision 3 and paragraph a of subdivision 4 of section 3020 of the education law, as amended by chapter 103 of the laws of 2010, are amended to read as follows:

3. Notwithstanding any inconsistent provision of law, the procedures set forth in section three thousand twenty-a of this article and subdivision seven of section twenty-five hundred ninety-j of this chapter may be modified or replaced by agreements negotiated between the city school district of the city of New York and any employee organization representing employees or titles that are or were covered by any memorandum of agreement executed by such city school district and the council of

supervisors and administrators of the city of New York on or after December first, nineteen hundred ninety-nine. Where such procedures are so modified or replaced: (i) compliance with such modification or replacement procedures shall satisfy any provision in this chapter that requires compliance with section three thousand twenty-a, (ii) any employee against whom charges have been preferred prior to the effective date of such modification or replacement shall continue to be subject to the provisions of such section as in effect on the date such charges were preferred, (iii) the provisions of subdivisions one and two of this section shall not apply to agreements negotiated pursuant to this subdivision, and (iv) in accordance with paragraph (e) of subdivision one of section two hundred nine-a of the civil service law, such modification or replacement procedures contained in an agreement negotiated pursuant to this subdivision shall continue as terms of such agreement after its expiration until a new agreement is negotiated; provided that any alternate disciplinary procedures contained in a collective bargaining agreement that becomes effective on or after July first, two thousand ten shall provide for an expedited hearing process before a single hearing officer in accordance with subparagraph (i-a) of paragraph c of subdivision three of section three thousand twenty-a of this article in cases in which charges of incompetence are brought against a building principal based solely upon an allegation of a pattern of ineffective teaching or performance as defined in section three thousand twelve-c of this article and shall provide that such a pattern of ineffective teaching or performance shall constitute very significant evidence of incompetence which may form the basis for just cause removal of the building principal AND PROVIDED FURTHER THAT ANY ALTERNATE DISCIPLINARY PROCEDURES CONTAINED IN A COLLECTIVE BARGAINING AGREEMENT THAT BECOMES EFFECTIVE ON OR AFTER APRIL FIRST, TWO THOUSAND FIFTEEN SHALL PROVIDE THAT ALL HEARINGS SHALL BE CONDUCTED BEFORE A SINGLE HEARING OFFICER AND THAT SUCH A PATTERN OF INEFFECTIVE TEACHING OR PERFORMANCE BY A BUILDING PRINCIPAL SHALL CONSTITUTE PRIMA FACIE EVIDENCE OF INCOMPETENCE THAT CAN ONLY BE REBUTTED BY CLEAR AND CONVINCING EVIDENCE THAT THE CALCULATION OF ONE OR MORE OF THE TEACHER'S OR PRINCIPAL'S UNDERLYING COMPOSITE RATINGS ON THE ANNUAL PROFESSIONAL PERFORMANCE REVIEWS PURSUANT TO SECTION THREE THOUSAND TWELVE-C OF THIS ARTICLE WAS FRAUDULENT, AND IF NOT SUCCESSFULLY REBUTTED, THE FINDING, ABSENT EXTRAORDINARY CIRCUMSTANCES, SHALL BE JUST CAUSE FOR REMOVAL. Notwithstanding any inconsistent provision of law, the commissioner shall review any appeals authorized by such modification or replacement procedures within fifteen days from receipt by such commissioner of the record of prior proceedings in the matter subject to appeal. Such review shall have preference over all other appeals or proceedings pending before such commissioner.

a. Notwithstanding any inconsistent provision of law, the procedures set forth in section three thousand twenty-a of this article and subdivision seven of section twenty-five hundred ninety-j of this chapter may be modified by agreements negotiated between the city school district of the city of New York and any employee organization representing employees or titles that are or were covered by any memorandum of agreement executed by such city school district and the united federation of teachers on or after June tenth, two thousand two. Where such procedures are so modified: (i) compliance with such modified procedures shall satisfy any provision of this chapter that requires compliance with section three thousand twenty-a of this article; (ii) any employee against whom charges have been preferred prior to the effective date of such modification shall continue to be subject to the provisions of such

section as in effect on the date such charges were preferred; (iii) the provisions of subdivisions one and two of this section shall not apply to agreements negotiated pursuant to this subdivision, except that no person enjoying the benefits of tenure shall be disciplined or removed during a term of employment except for just cause; and (iv) in accordance with paragraph (e) of subdivision one of section two hundred nine-a of the civil service law, such modified procedures contained in an agreement negotiated pursuant to this subdivision shall continue as terms of such agreement after its expiration until a new agreement is negotiated; and provided further that any alternate disciplinary procedures contained in a collective bargaining agreement that becomes effective on or after July first, two thousand ten shall provide for an expedited hearing process before a single hearing officer in accordance with subparagraph (i-a) of paragraph c of subdivision three of section three thousand twenty-a of this article in cases in which charges of incompetence are brought based solely upon an allegation of a pattern of ineffective teaching or performance as defined in section three thousand twelve-c of this article and shall provide that such a pattern of ineffective teaching or performance shall constitute very significant evidence of incompetence which may form the basis for just cause removal, AND PROVIDED FURTHER THAT ANY ALTERNATE DISCIPLINARY PROCEDURES CONTAINED IN A COLLECTIVE BARGAINING AGREEMENT THAT BECOMES EFFECTIVE ON OR AFTER APRIL FIRST, TWO THOUSAND FIFTEEN SHALL PROVIDE THAT ALL HEARINGS SHALL BE CONDUCTED BEFORE A SINGLE HEARING OFFICER AND THAT SUCH A PATTERN OF INEFFECTIVE TEACHING OR PERFORMANCE SHALL CONSTITUTE PRIMA FACIE EVIDENCE OF INCOMPETENCE THAT CAN ONLY BE REBUTTED BY CLEAR AND CONVINCING EVIDENCE THAT THE CALCULATION OF ONE OR MORE OF THE TEACHER'S OR PRINCIPAL'S UNDERLYING COMPOSITE RATINGS ON THE ANNUAL PROFESSIONAL PERFORMANCE REVIEWS PURSUANT TO SECTION THREE THOUSAND TWELVE-C OF THIS ARTICLE WAS FRAUDULENT, AND IF NOT SUCCESSFULLY REBUTTED, THE FINDING, ABSENT EXTRAORDINARY CIRCUMSTANCES, SHALL BE JUST CAUSE FOR REMOVAL.

S 3. Section 3020-a of the education law, as amended by section 1 of part B of chapter 57 of the laws of 2012, is amended to read as follows:

S 3020-a. Disciplinary procedures and penalties. 1. Filing of charges. All charges against a person enjoying the benefits of tenure as provided in subdivision three of section eleven hundred two, and sections twenty-five hundred nine, twenty-five hundred seventy-three, twenty-five hundred ninety-j, three thousand twelve and three thousand fourteen of this chapter shall be in writing and filed with the clerk or secretary of the school district or employing board during the period between the actual opening and closing of the school year for which the employed is normally required to serve. Except as provided in subdivision eight of section twenty-five hundred seventy-three and subdivision seven of section twenty-five hundred ninety-j of this chapter, no charges under this section shall be brought more than three years after the occurrence of the alleged incompetency or misconduct, except when the charge is of misconduct constituting a crime when committed.

2. Disposition of charges. a. Upon receipt of the charges, the clerk or secretary of the school district or employing board shall immediately notify said board thereof. Within five days after receipt of charges, the employing board, in executive session, shall determine, by a vote of a majority of all the members of such board, whether probable cause exists to bring a disciplinary proceeding against an employee pursuant to this section. If such determination is affirmative, a written statement specifying (i) the charges in detail, (ii) the maximum penalty which will be imposed by the board if the employee does not request a

hearing or that will be sought by the board if the employee is found guilty of the charges after a hearing and (iii) the employee's rights under this section, shall be immediately forwarded to the accused employee by certified or registered mail, return receipt requested or by personal delivery to the employee.

b. The employee may be suspended pending a hearing on the charges and the final determination thereof. The suspension shall be with pay, except the employee may be suspended without pay if the employee has entered a guilty plea to or has been convicted of a felony crime concerning the criminal sale or possession of a controlled substance, a precursor of a controlled substance, or drug paraphernalia as defined in article two hundred twenty or two hundred twenty-one of the penal law; or a felony crime involving the physical abuse of a minor or student. THE SUSPENSION SHALL ALSO BE WITHOUT PAY IF THE EMPLOYEE IS CHARGED WITH MISCONDUCT CONSTITUTING PHYSICAL OR SEXUAL ABUSE OF A STUDENT AND IS SUSPENDED PENDING AN EXPEDITED HEARING PURSUANT TO SUBPARAGRAPH (I-B) OF PARAGRAPH C OF SUBDIVISION THREE OF THIS SECTION, PROVIDED THAT SUCH AN EMPLOYEE SHALL BE ELIGIBLE TO RECEIVE REIMBURSEMENT FOR WITHHELD PAY IF THE HEARING OFFICER FINDS IN HIS FAVOR. The employee shall be terminated without a hearing, as provided for in this section, upon conviction of a sex offense, as defined in subparagraph two of paragraph b of subdivision seven-a of section three hundred five of this chapter. To the extent this section applies to an employee acting as a school administrator or supervisor, as defined in subparagraph three of paragraph b of subdivision seven-b of section three hundred five of this chapter, such employee shall be terminated without a hearing, as provided for in this section, upon conviction of a felony offense defined in subparagraph two of paragraph b of subdivision seven-b of section three hundred five of this chapter.

c. [Within] (I) FOR HEARINGS COMMENCED BY THE FILING OF CHARGES PRIOR TO APRIL FIRST, TWO THOUSAND FIFTEEN, WITHIN ten days of receipt of the statement of charges, the employee shall notify the clerk or secretary of the employing board in writing whether he or she desires a hearing on the charges and when the charges concern pedagogical incompetence or issues involving pedagogical judgment, his or her choice of either a single hearing officer or a three member panel, provided that a three member panel shall not be available where the charges concern pedagogical incompetence based solely upon a teacher's or principal's pattern of ineffective teaching or performance as defined in section three thousand twelve-c of this article. All other charges shall be heard by a single hearing officer.

(II) ALL HEARINGS COMMENCED BY THE FILING OF CHARGES ON OR AFTER APRIL FIRST, TWO THOUSAND FIFTEEN SHALL BE HEARD BY A SINGLE HEARING OFFICER.

d. The unexcused failure of the employee to notify the clerk or secretary of his or her desire for a hearing within ten days of the receipt of charges shall be deemed a waiver of the right to a hearing. Where an employee requests a hearing in the manner provided for by this section, the clerk or secretary of the board shall, within three working days of receipt of the employee's notice or request for a hearing, notify the commissioner of the need for a hearing. If the employee waives his or her right to a hearing the employing board shall proceed, within fifteen days, by a vote of a majority of all members of such board, to determine the case and fix the penalty, if any, to be imposed in accordance with subdivision four of this section.

3. Hearings. a. Notice of hearing. Upon receipt of a request for a hearing in accordance with subdivision two of this section, the commis-

sioner shall forthwith notify the American Arbitration Association (hereinafter "association") of the need for a hearing and shall request the association to provide to the commissioner forthwith a list of names of persons chosen by the association from the association's panel of labor arbitrators to potentially serve as hearing officers together with relevant biographical information on each arbitrator. Upon receipt of said list and biographical information, the commissioner shall forthwith send a copy of both simultaneously to the employing board and the employee. The commissioner shall also simultaneously notify both the employing board and the employee of each potential hearing officer's record in the last five cases of commencing and completing hearings within the time periods prescribed in this section.

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

(A) Notwithstanding any other provision of law, for hearings commenced by the filing of charges prior to April first, two thousand twelve, the hearing officer shall be compensated by the department with the customary fee paid for service as an arbitrator under the auspices of the association for each day of actual service plus necessary travel and other reasonable expenses incurred in the performance of his or her duties. All other expenses of the disciplinary proceedings commenced by the filing of charges prior to April first, two thousand twelve shall be paid in accordance with rules promulgated by the commissioner. Claims for such compensation for days of actual service and reimbursement for necessary travel and other expenses for hearings commenced by the filing of charges prior to April first, two thousand twelve shall be paid from an appropriation for such purpose in the order in which they have been approved by the commissioner for payment, provided payment shall first be made for any other hearing costs payable by the commissioner, including the costs of transcribing the record, and provided further that no such claim shall be set aside for insufficiency of funds to make a complete payment, but shall be eligible for a partial payment in one year and shall retain its priority date status for appropriations designated for such purpose in future years.

(B) Notwithstanding any other provision of law, rule or regulation to the contrary, for hearings commenced by the filing of charges on or after April first, two thousand twelve, the hearing officer shall be compensated by the department for each day of actual service plus necessary travel and other reasonable expenses incurred in the performance of his or her duties, provided that the commissioner shall establish a schedule for maximum rates of compensation of hearing officers based on customary and reasonable fees for service as an arbitrator and provide for limitations on the number of study hours that may be claimed.

(ii) The commissioner shall mail to the employing board and the employee the list of potential hearing officers and biographies provided to the commissioner by the association, the employing board and the employee, individually or through their agents or representatives, shall

by mutual agreement select a hearing officer from said list to conduct the hearing and shall notify the commissioner of their selection.

(iii) Within fifteen days after receiving the list of potential hearing officers as described in subparagraph (ii) of this paragraph, the employing board and the employee shall each notify the commissioner of their agreed upon hearing officer selection. If the employing board and the employee fail to agree on an arbitrator to serve as a hearing officer from the list of potential hearing officers, or fail to notify the commissioner of a selection within such fifteen day time period, the commissioner shall appoint a hearing officer from the list. The provisions of this subparagraph shall not apply in cities with a population of one million or more with alternative procedures specified in section three thousand twenty of this article.

(iv) In those cases COMMENCED BY THE FILING OF CHARGES PRIOR TO APRIL FIRST, TWO THOUSAND FIFTEEN in which the employee elects to have the charges heard by a hearing panel, the hearing panel shall consist of the hearing officer, selected in accordance with this subdivision, and two additional persons, one selected by the employee and one selected by the employing board, from a list maintained for such purpose by the commissioner. The list shall be composed of professional personnel with administrative or supervisory responsibility, professional personnel without administrative or supervisory responsibility, chief school administrators, members of employing boards and others selected from lists of nominees submitted to the commissioner by statewide organizations representing teachers, school administrators and supervisors and the employing boards. Hearing panel members other than the hearing officer shall be compensated by the department at the rate of one hundred dollars for each day of actual service plus necessary travel and subsistence expenses. The hearing officer shall be compensated as set forth in this subdivision. The hearing officer shall be the chairperson of the hearing panel.

c. Hearing procedures. (i) (A) The commissioner shall have the power to establish necessary rules and procedures for the conduct of hearings under this section.

(B) The department shall be authorized to monitor and investigate a hearing officer's compliance with statutory timelines pursuant to this section. 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 this section 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 this section 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.

(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. FULL AND FAIR DISCLOSURE OF THE WITNESSES AND EVIDENCE SHALL BE MADE BY BOTH PARTIES IN THE MANNER PRESCRIBED IN ARTICLES THREE AND FOUR OF THE STATE ADMINISTRATIVE PROCEDURE ACT. 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 testimo-

ny taken shall be under oath which the hearing officer is hereby authorized to administer. CHILDREN SHALL BE PERMITTED TO TESTIFY THROUGH SWORN WRITTEN OR VIDEO STATEMENTS.

(D) An accurate record of the proceedings shall be kept at the expense of the department at each such hearing in accordance with the regulations of the commissioner. A copy of the record of the hearings shall, upon request, be furnished without charge to the employee and the board of education involved. The department shall be authorized to utilize any new technology or such other appropriate means to transcribe or record such hearings in an accurate, reliable, efficient and cost-effective manner without any charge to the employee or board of education involved.

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

(B) Such charges shall allege that the employing board has developed and substantially implemented a teacher or principal improvement plan in accordance with subdivision four of section three thousand twelve-c of this article for the employee following the first evaluation in which the employee was rated ineffective, and the immediately preceding evaluation if the employee was rated developing. Notwithstanding any other provision of law to the contrary, a pattern of ineffective teaching or performance as defined in section three thousand twelve-c of this article shall [constitute very significant evidence of incompetence for purposes of this section] CONSTITUTE PRIMA FACIE EVIDENCE OF INCOMPETENCE THAT CAN ONLY BE REBUTTED BY CLEAR AND CONVINCING EVIDENCE THAT THE CALCULATION OF ONE OR MORE OF THE TEACHER'S OR PRINCIPAL'S UNDERLYING COMPOSITE RATINGS ON THE ANNUAL PROFESSIONAL PERFORMANCE REVIEWS PURSUANT TO SECTION THREE THOUSAND TWELVE-C OF THIS ARTICLE WAS FRAUDULENT, AND IF NOT SUCCESSFULLY REBUTTED, THE FINDING, ABSENT EXTRAORDINARY CIRCUMSTANCES, SHALL BE JUST CAUSE FOR REMOVAL. Nothing in this subparagraph shall be construed to OTHERWISE limit the defenses which the employee may place before the hearing officer in challenging the allegation of a pattern of ineffective teaching or performance, EXCEPT THAT FAILURE OF THE EMPLOYING BOARD TO REHABILITATE THE TEACHER OR PRINCIPAL AND CORRECT HIS OR HER DEFICIENCIES SHALL NOT BE A DEFENSE.

(C) 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 this subparagraph for conducting expedited hearings are to be strictly followed. A record of continued fail-

ure to commence and complete expedited hearings within the time periods prescribed in 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 expedited hearings.

(I-B)(A) WHERE CHARGES OF MISCONDUCT CONSTITUTING PHYSICAL OR SEXUAL ABUSE OF A STUDENT ARE BROUGHT, 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 ENSURE AN EQUITABLE DISTRIBUTION OF DAYS BETWEEN THE EMPLOYING BOARD AND THE CHARGED EMPLOYEE. NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, NO ADJOURNMENTS MAY BE GRANTED THAT WOULD EXTEND THE HEARING BEYOND SUCH SIXTY DAYS, EXCEPT AS AUTHORIZED IN THIS SUBPARAGRAPH. A HEARING OFFICER, UPON REQUEST, MAY GRANT A LIMITED AND TIME SPECIFIC ADJOURNMENT THAT WOULD EXTEND THE HEARING BEYOND SUCH SIXTY DAYS IF THE HEARING OFFICER DETERMINES THAT THE DELAY IS ATTRIBUTABLE TO A CIRCUMSTANCE OR OCCURRENCE SUBSTANTIALLY BEYOND THE CONTROL OF THE REQUESTING PARTY AND AN INJUSTICE WOULD RESULT IF THE ADJOURNMENT WERE NOT GRANTED.

(B) 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 THIS SUBPARAGRAPH FOR CONDUCTING EXPEDITED HEARINGS ARE TO BE STRICTLY FOLLOWED AND FAILURE TO DO SO 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 EXPEDITED HEARINGS.

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

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

(A) issue subpoenas;

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

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

(iv) Any pre-hearing motion or application relative to the sufficiency of the charges, application or amendment thereof, or any preliminary matters shall be made upon written notice to the hearing officer and the adverse party no less than five days prior to the date of the pre-hearing 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.

(vii) All evidence shall be submitted by all parties within one hundred twenty-five days of the filing of charges and no additional evidence shall be accepted after such time, absent extraordinary circumstances beyond the control of the parties.

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. 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 forward a copy thereof to the commissioner 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 intervention or an employee assistance

plan.] FAILURE OF THE EMPLOYING BOARD TO REMEDIATE OR CORRECT THE BEHAVIOR OF THE EMPLOYEE SHALL NOT BE A DEFENSE TO ANY CHARGES AND SHALL NOT BE CONSIDERED BY THE HEARING OFFICER IN DETERMINING THE PENALTY OR OTHER ACTION TO BE IMPOSED. 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. PROVIDED, HOWEVER, THAT THE HEARING OFFICER SHALL ADOPT THE PENALTY RECOMMENDED BY THE EMPLOYING BOARD EXCEPT WHERE THE HEARING OFFICER CONCLUDES THAT THE BOARD ACTED IN BAD FAITH OR THERE ARE EXTRAORDINARY CIRCUMSTANCES IN WHICH THE RECOMMENDED PENALTY WOULD BE SO DISPROPORTIONATE TO THE OFFENSES PROVEN AS TO BE SHOCKING TO THE CONSCIENCE OF THE HEARING OFFICER.

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 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. The hearing officer shall indicate in the decision whether any of the charges brought by the employing board were frivolous as defined in section eighty-three hundred three-a of the civil practice law and rules. If the hearing officer finds that all of the charges brought against the employee were frivolous, the hearing officer shall order the employing board to reimburse the 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 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 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 4. Paragraph j of subdivision 5-a of section 3012-c of the education law, as added by chapter 21 of the laws of 2012, is amended to read as follows:

j. If a teacher receives an ineffective rating for a school year in which the teacher is in year two status and the independent validator agrees, the district may bring a proceeding pursuant to sections three thousand twenty and three thousand twenty-a of this article based on a pattern of ineffective teaching or performance. In such proceeding, the charges shall allege that the employing board has developed and substantially implemented a teacher improvement plan in accordance with subdivision four of this section for the employee following the evaluation made for the year in which the employee was in year one status and was rated ineffective. The pattern of ineffective teaching or performance shall [give rise to a rebuttable presumption of incompetence and if the presumption is not successfully rebutted, the finding, absent extraordinary circumstances, shall be just cause for removal] CONSTITUTE PRIMA FACIE EVIDENCE OF INCOMPETENCE THAT CAN ONLY BE REBUTTED BY CLEAR AND CONVINCING EVIDENCE THAT THE CALCULATION OF ONE OR MORE OF THE TEACHER'S OR PRINCIPAL'S UNDERLYING COMPOSITE RATINGS ON THE ANNUAL PROFESSIONAL PERFORMANCE REVIEWS PURSUANT TO THIS SECTION WAS FRAUDULENT, AND IF NOT SUCCESSFULLY REBUTTED, THE FINDING, ABSENT EXTRAORDINARY CIRCUMSTANCES, SHALL BE JUST CAUSE FOR REMOVAL. In these hearings, the teacher shall have up to three days to present his or her case 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.

S 5. This act shall take effect April 1, 2015 and shall apply to hearings commenced by the filing or service of charges on or after April 1, 2015, provided that effective immediately, the commissioner of education shall be authorized to promulgate any regulations needed to implement the provisions of this act on such effective date.

SUBPART F

Section 1. Paragraph (a) of subdivision 1 of section 2856 of the education law, as amended by section 3 of part BB of chapter 56 of the laws of 2014, is amended to read as follows:

(a) The enrollment of students attending charter schools shall be included in the enrollment, attendance, membership and, if applicable, count of students with disabilities of the school district in which the pupil resides. The charter school shall report all such data to the school districts of residence in a timely manner. Each school district shall report such enrollment, attendance and count of students with disabilities to the department. The school district of residence shall pay directly to the charter school for each student enrolled in the charter school who resides in the school district the charter school basic tuition, which shall be:

(i) for school years prior to the two thousand nine--two thousand ten school year and for school years following the two thousand sixteen--two thousand seventeen school year, an amount equal to one hundred percent of the amount calculated pursuant to paragraph f of subdivision one of section thirty-six hundred two of this chapter for the school district for the year prior to the base year increased by the percentage change in the state total approved operating expense calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter from two years prior to the base year to the base year;

(ii) for the two thousand nine--two thousand ten school year, the charter school basic tuition shall be the amount payable by such district as charter school basic tuition for the two thousand eight--two thousand nine school year;

(iii) for the two thousand ten--two thousand eleven through two thousand thirteen--two thousand fourteen school years, the charter school basic tuition shall be the basic tuition computed for the two thousand ten--two thousand eleven school year pursuant to the provisions of subparagraph (i) of this paragraph;

(iv) for the two thousand fourteen--two thousand fifteen, two thousand fifteen--two thousand sixteen and two thousand sixteen--two thousand seventeen school years, the charter school basic tuition shall be the sum of the lesser of the charter school basic tuition computed for the two thousand ten--two thousand eleven school year pursuant to the provisions of subparagraph (i) of this paragraph or the charter school basic tuition computed for the current year pursuant to the provisions of subparagraph (i) of this paragraph plus the supplemental basic tuition.

For the purposes of this subdivision, the "supplemental basic tuition" shall be (A) for a school district for which the charter school basic tuition computed for the current year is greater than or equal to the charter school basic tuition for the two thousand ten--two thousand eleven school year pursuant to the provisions of subparagraph (i) of this paragraph, (1) for the two thousand fourteen--two thousand fifteen school year two hundred and fifty dollars, and (2) for the two thousand fifteen--two thousand sixteen school year [three hundred and fifty] FIVE HUNDRED SEVENTY-FIVE dollars, and (3) for the two thousand sixteen--two thousand seventeen school year five hundred SEVENTY-FIVE dollars, PLUS THE POSITIVE DIFFERENCE OF THE CHARTER SCHOOL BASIC TUITION FOR THE CURRENT SCHOOL YEAR MINUS THE CHARTER SCHOOL BASIC TUITION FOR THE TWO THOUSAND TEN--TWO THOUSAND ELEVEN SCHOOL YEAR PURSUANT TO THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH, and (B) for a school district for which the charter school basic tuition for the two thousand ten--two thousand eleven school year is greater than the charter school basic tuition for the current year pursuant to the provisions of subparagraph (i) of this paragraph, the positive difference of the charter school basic tuition for the two thousand ten--two thousand eleven school year minus the charter school basic tuition for the current year pursuant to the provisions of subparagraph (i) of this paragraph.

S 2. Paragraph (a) of subdivision 1 of section 2856 of the education law, as amended by section 4 of part BB of chapter 56 of the laws of 2014, is amended to read as follows:

(a) The enrollment of students attending charter schools shall be included in the enrollment, attendance, MEMBERSHIP and, if applicable, count of students with disabilities of the school district in which the pupil resides. The charter school shall report all such data to the school districts of residence in a timely manner. Each school district shall report such enrollment, attendance and count of students with disabilities to the department. The school district of residence shall pay directly to the charter school for each student enrolled in the charter school who resides in the school district the charter school basic tuition which shall be:

(i) for school years prior to the two thousand nine--two thousand ten school year and for school years following the two thousand sixteen--two thousand seventeen school year, an amount equal to one hundred percent of the amount calculated pursuant to paragraph f of subdivision one of section thirty-six hundred two of this chapter for the school district for the year prior to the base year increased by the percentage change in the state total approved operating expense calculated pursuant to

paragraph t of subdivision one of section thirty-six hundred two of this chapter from two years prior to the base year to the base year;

(ii) for the two thousand nine--two thousand ten school year, the charter school basic tuition shall be the amount payable by such district as charter school basic tuition for the two thousand eight--two thousand nine school year;

(iii) for the two thousand ten--two thousand eleven through two thousand thirteen--two thousand fourteen school years, the charter school basic tuition shall be the basic tuition computed for the two thousand ten--two thousand eleven school year pursuant to the provisions of subparagraph (i) of this paragraph;

(iv) for the two thousand fourteen--two thousand fifteen, two thousand fifteen--two thousand sixteen and two thousand sixteen--two thousand seventeen school years, the charter school basic tuition shall be the sum of the lesser of the charter school basic tuition computed for the two thousand ten--two thousand eleven school year pursuant to the provisions of subparagraph (i) of this paragraph or the charter school basic tuition computed for the current year pursuant to the provisions of subparagraph (i) of this paragraph plus the supplemental basic tuition.

For the purposes of this subdivision, the "supplemental basic tuition" shall be (A) for a school district for which the charter school basic tuition computed for the current year is greater than or equal to the charter school basic tuition for the two thousand ten--two thousand eleven school year pursuant to the provisions of subparagraph (i) of this paragraph, (1) for the two thousand fourteen--two thousand fifteen school year two hundred and fifty dollars, and (2) for the two thousand fifteen--two thousand sixteen school year [three hundred and fifty] FIVE HUNDRED SEVENTY-FIVE dollars, and (3) for the two thousand sixteen--two thousand seventeen school year five hundred SEVENTY-FIVE dollars, PLUS THE POSITIVE DIFFERENCE OF THE CHARTER SCHOOL BASIC TUITION FOR THE CURRENT SCHOOL YEAR MINUS THE CHARTER SCHOOL BASIC TUITION FOR THE TWO THOUSAND TEN--TWO THOUSAND ELEVEN SCHOOL YEAR PURSUANT TO THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH, and (B) for a school district for which the charter school basic tuition for the two thousand ten--two thousand eleven school year is greater than the charter school basic tuition for the current year pursuant to the provisions of subparagraph (i) of this paragraph, the positive difference of the charter school basic tuition for the two thousand ten--two thousand eleven school year minus the charter school basic tuition for the current year pursuant to the provisions of subparagraph (i) of this paragraph.

S 3. Subdivisions 9 and 9-a of section 2852 of the education law, subdivision 9 as amended and subdivision 9-a as added by chapter 101 of the laws of 2010, paragraph (a) of subdivision 9-a as amended by chapter 221 of the laws of 2010, paragraph (f) of subdivision 9-a as amended by chapter 102 of the laws of 2010, are amended to read as follows:

9. The total number of charters issued pursuant to this article STATEWIDE shall not exceed [four] FIVE hundred sixty. (a) [One hundred of such charters shall be issued on the recommendation of the charter entity described in paragraph (b) of subdivision three of section twenty-eight hundred fifty-one of this article; (b) one hundred of such charters shall be issued on the recommendation of the other charter entities set forth in subdivision three of section twenty-eight hundred fifty-one of this article; (c) up to fifty of the additional charters authorized to be issued by the chapter of the laws of two thousand seven which amended this subdivision effective July first, two thousand seven shall

be reserved for a city school district of a city having a population of one million or more; (d) one hundred thirty charters shall be issued by the board of regents pursuant to a competitive process in accordance with subdivision nine-a of this section, provided that no more than fifty-seven of such charters shall be granted to a charter for a school to be located in a city having a population of one million or more; (e) one hundred thirty charters shall be issued by the board of regents on the recommendation of the board of trustees of the state university of New York pursuant to a competitive process in accordance with subdivision nine-a of this section, provided that no more than fifty-seven of such charters shall be granted to a charter for a school to be located in a city having a population of one million or more] ALL CHARTERS ISSUED ON OR AFTER FEBRUARY FIRST, TWO THOUSAND FIFTEEN AND COUNTED TOWARD THE NUMERICAL LIMITS ESTABLISHED BY THIS SUBDIVISION SHALL BE ISSUED BY THE BOARD OF REGENTS UPON APPLICATION DIRECTLY TO THE BOARD OF REGENTS OR ON THE RECOMMENDATION OF THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK PURSUANT TO A COMPETITIVE PROCESS IN ACCORDANCE WITH SUBDIVISION NINE-A OF THIS SECTION. The failure of any body to issue the regulations authorized pursuant to this article shall not affect the authority of a charter entity to propose a charter to the board of regents or the board of regents' authority to grant such charter. A conversion of an existing public school to a charter school or the renewal or extension of a charter APPROVED BY ANY CHARTER ENTITY shall not be counted toward the numerical limits established by this subdivision.

(B) A CHARTER SCHOOL WHOSE CHARTER HAS BEEN SURRENDERED, REVOKED OR TERMINATED, INCLUDING A CHARTER THAT HAS NOT BEEN RENEWED BY ACTION OF ITS CHARTER ENTITY, SHALL NOT BE COUNTED TOWARD THE NUMERICAL LIMITS ESTABLISHED BY THIS SUBDIVISION AND INSTEAD SHALL BE RETURNED TO THE STATEWIDE POOL AND MAY BE REISSUED BY THE BOARD OF REGENTS EITHER UPON APPLICATION DIRECTLY TO THE BOARD OF REGENTS OR ON THE RECOMMENDATION OF THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK PURSUANT TO A COMPETITIVE PROCESS IN ACCORDANCE WITH SUBDIVISION NINE-A OF THIS SECTION.

(C) FOR PURPOSES OF DETERMINING THE TOTAL NUMBER OF CHARTERS ISSUED WITHIN THE NUMERICAL LIMITS ESTABLISHED BY THIS SUBDIVISION, THE APPROVAL DATE OF THE CHARTERING ENTITY SHALL BE THE DETERMINING FACTOR.

9-a. (a) The board of regents is hereby authorized and directed to issue [two] UP TO FIVE hundred sixty charters UPON EITHER APPLICATIONS SUBMITTED DIRECTLY TO THE BOARD OF REGENTS OR APPLICATIONS RECOMMENDED BY THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK pursuant to a competitive request for proposals process.

[(i) Commencing on August first, two thousand ten through September first, two thousand thirteen, the board of regents and the board of trustees of the state university of New York shall each issue a request for proposals in accordance with this subdivision and this subparagraph:

(1) Each request for proposals to be issued by the board of regents and the board of trustees of the state university of New York on August first, two thousand ten shall be for a maximum of thirty-two charters to be issued for charter schools which would commence instructional operation by the September of the next calendar year.

(2) Each request for proposals to be issued by the board of regents and the board of trustees of the state university of New York on January first, two thousand eleven shall be for a maximum of thirty-three charters to be issued for charter schools which would commence instructional operation by the September of the next calendar year.

(3) Each request for proposals to be issued by the board of regents and the board of trustees of the state university of New York on January first, two thousand twelve shall be for a maximum of thirty-two charters to be issued for charter schools which would commence instructional operation by the September of the next calendar year.

(4) Each request for proposals to be issued by the board of regents and the board of trustees of the state university of New York on September first, two thousand thirteen shall be for a maximum of thirty-three charters to be issued for charter schools which would commence instructional operation by the September of the next calendar year.

(ii) If after September first, two thousand thirteen, either the board of regents or the board of trustees of the state university of New York have any charters which have not yet been issued, they may be issued pursuant to requests for proposals issued in each succeeding year, without limitation as to when such requests for proposals may be issued, or a limitation on the number of charters which may be issued.

(iii) Notwithstanding the provisions of clauses one, two, three and four of subparagraph (i) of this paragraph and subparagraph (ii) of this paragraph, if fewer charters are issued than were requested in such request for proposals, the difference may be added to the number of charters requested in the request for proposals issued in each succeeding year.

(iv)] The board of regents shall make a determination to issue a charter pursuant to a request for proposals no later than December thirty-first of each year.

(b) The board of regents and the board of trustees of the state university of New York shall each develop such request for proposals in a manner that facilitates a thoughtful review of charter school applications, considers the demand for charter schools by the community, and seeks to locate charter schools in a region or regions where there may be a lack of alternatives and access to charter schools would provide new alternatives within the local public education system that would offer the greatest educational benefit to students. Applications shall be evaluated in accordance with the criteria and objectives contained within a request for proposals. The board of regents and the board of trustees of the state university of New York shall not consider any applications which do not rigorously demonstrate that they have met the following criteria:

(i) that the proposed charter school would meet or exceed enrollment and retention targets, as prescribed by the board of regents or the board of trustees of the state university of New York, as applicable, of students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program. When developing such targets, the board of regents and the board of trustees of the state university of New York, shall ensure (1) that such enrollment targets are comparable to the enrollment figures of such categories of students attending the public schools within the school district, or in a city school district in a city having a population of one million or more inhabitants, the community school district, in which the proposed charter school would be located; and (2) that such retention targets are comparable to the rate of retention of such categories of students attending the public schools within the school district, or in a city school district in a city having a population of one million or more inhabitants, the community school district, in which the proposed charter school would be located; and

(ii) that the applicant has conducted public outreach, in conformity with a thorough and meaningful public review process prescribed by the board of regents and the board of trustees of the state university of New York, to solicit community input regarding the proposed charter school and to address comments received from the impacted community concerning the educational and programmatic needs of students.

(c) The board of regents and the board of trustees of the state university of New York shall grant priority based on a scoring rubric to those applications that best demonstrate how they will achieve the following objectives, and any additional objectives the board of regents and the board of trustees of the state university of New York, may prescribe:

(i) increasing student achievement and decreasing student achievement gaps in reading/language arts and mathematics;

(ii) increasing high school graduation rates and focusing on serving specific high school student populations including, but not limited to, students at risk of not obtaining a high school diploma, re-enrolled high school drop-outs, and students with academic skills below grade level;

(iii) focusing on the academic achievement of middle school students and preparing them for a successful transition to high school;

(iv) utilizing high-quality assessments designed to measure a student's knowledge, understanding of, and ability to apply, critical concepts through the use of a variety of item types and formats;

(v) increasing the acquisition, adoption, and use of local instructional improvement systems that provide teachers, principals, and administrators with the information and resources they need to inform and improve their instructional practices, decision-making, and overall effectiveness;

(vi) partnering with low performing public schools in the area to share best educational practices and innovations;

(vii) demonstrating the management and leadership techniques necessary to overcome initial start-up problems to establish a thriving, financially viable charter school;

(viii) demonstrating the support of the school district in which the proposed charter school will be located and the intent to establish an ongoing relationship with such school district.

(d) No later than November first, two thousand ten, and of each succeeding year, after a thorough review of applications received, the board of trustees of the state university of New York shall recommend for approval to the board of regents the qualified applications that it has determined rigorously demonstrate the criteria and best satisfy the objectives contained within a request for proposals, along with supporting documentation outlining such determination.

(e) Upon receipt of a proposed charter to be issued pursuant to this subdivision submitted by a charter entity, the board of regents or the board of trustees of the state university of New York, shall review, recommend and issue, as applicable, such charters in accordance with the standards established in this subdivision.

(f) The board of regents shall be the only entity authorized to issue a charter pursuant to this article. The board of regents shall consider applications submitted directly to the board of regents and applications recommended by the board of trustees of the state university of New York. Provided, however, that all such recommended applications shall be deemed approved and issued pursuant to the provisions of subdivisions five, five-a and five-b of this section.

(g) Each application submitted in response to a request for proposals pursuant to this subdivision shall also meet the application requirements set out in this article and any other applicable laws, rules and regulations.

(h) During the development of a request for proposals pursuant to this subdivision the board of regents and the board of trustees of the state university of New York shall each afford the public an opportunity to submit comments and shall review and consider the comments raised by all interested parties.

S 4. Paragraph (b) of subdivision 2 of section 2854 of the education law, as amended by chapter 101 of the laws of 2010, is amended to read as follows:

(b) Any child who is qualified under the laws of this state for admission to a public school is qualified for admission to a charter school. Applications for admission to a charter school shall be submitted on a uniform application form created by the department and shall be made available by a charter school in languages predominately spoken in the community in which such charter school is located. The school shall enroll each eligible student who submits a timely application by the first day of April each year, unless the number of applications exceeds the capacity of the grade level or building. In such cases, students shall be accepted from among applicants by a random selection process, provided, however, that an enrollment preference shall be provided to pupils returning to the charter school in the second or any subsequent year of operation and pupils residing in the school district in which the charter school is located, and siblings of pupils already enrolled in the charter school. PREFERENCE SHALL ALSO BE PROVIDED TO (I) STUDENTS WHO ARE ELIGIBLE APPLICANTS FOR THE FREE AND REDUCED PRICE LUNCH PROGRAM, (II) STUDENTS WHO ARE CURRENTLY ATTENDING OR WOULD OTHERWISE ATTEND A SCHOOL DISTRICT OR SCHOOL DESIGNATED AS CHRONICALLY UNDERPERFORMING PURSUANT TO SECTIONS TWO HUNDRED ELEVEN-F AND TWO HUNDRED ELEVEN-G OF THIS CHAPTER, AND (III) CHILDREN OF EMPLOYEES OF THE CHARTER SCHOOL, PROVIDED THAT SUCH CHILDREN OF EMPLOYEES MAY ONLY CONSTITUTE A SMALL PERCENTAGE OF THE CHARTER SCHOOL'S TOTAL ENROLLMENT. The commissioner shall establish regulations to require that the random selection process conducted pursuant to this paragraph be performed in a transparent and equitable manner and to require that the time and place of the random selection process be publicized in a manner consistent with the requirements of section one hundred four of the public officers law and be open to the public. For the purposes of this paragraph and paragraph (a) of this subdivision, the school district in which the charter school is located shall mean, for the city school district of the city of New York, the community district in which the charter school is located.

S 5. Paragraphs (d) and (e) of subdivision 1 of section 2855 of the education law, paragraph (d) as amended and paragraph (e) as added by chapter 101 of the laws of 2010, are amended, and a new paragraph (f) is added to read as follows:

(d) When the public employment relations board makes a determination that the charter school demonstrates a practice and pattern of egregious and intentional violations of subdivision one of section two hundred nine-a of the civil service law involving interference with or discrimination against employee rights under article fourteen of the civil service law; [or]

(e) Repeated failure to comply with the requirement to meet or exceed enrollment and retention targets of students with disabilities, English language learners, and students who are eligible applicants for the free

and reduced price lunch program pursuant to targets established by the board of regents or the board of trustees of the state university of New York, as applicable. Provided, however, if no grounds for terminating a charter are established pursuant to this section other than pursuant to this paragraph, and the charter school demonstrates that it has made extensive efforts to recruit and retain such students, including outreach to parents and families in the surrounding communities, widely publicizing the lottery for such school, and efforts to academically support such students in such charter school, then the charter entity or board of regents may retain such charter[.]; OR

(F) REPEATED FAILURE TO COMPLY WITH THE DATA REPORTING REQUIREMENTS PRESCRIBED IN SUBDIVISIONS TWO AND TWO-A OF SECTION TWENTY-EIGHT HUNDRED FIFTY-SEVEN OF THIS ARTICLE, INCLUDING BUT NOT LIMITED TO THE END OF THE YEAR REPORTING REQUIREMENTS ON THE ENROLLMENT AND RETENTION OF STUDENTS WITH LIMITED ENGLISH PROFICIENCY; THE NUMBER OF STUDENTS WITH DISABILITIES AND THE NUMBER OF STUDENTS IDENTIFIED AS ELIGIBLE FOR FREE AND REDUCED PRICE LUNCHES.

S 6. Section 2857 of the education law is amended by adding a new subdivision 2-a to read as follows:

2-A. NO LATER THAN THE FIRST DAY OF AUGUST OF EACH SCHOOL YEAR, (FOR DATA FOR THE PRECEDING SCHOOL YEAR) AND BI-MONTHLY THEREAFTER FOR THE CURRENT SCHOOL YEAR DATA, EACH CHARTER SCHOOL SHALL SUBMIT TO THE BOARD OF REGENTS DATA ON ENROLLMENT RATES, INCLUDING BUT NOT LIMITED TO THE NUMBER OF STUDENTS WITH LIMITED ENGLISH PROFICIENCY; THE NUMBER OF STUDENTS WITH DISABILITIES AND THE NUMBER OF STUDENTS IDENTIFIED AS ELIGIBLE FOR FREE AND REDUCED PRICE LUNCHES AND ANY OTHER ADDITIONAL REQUIREMENTS PRESCRIBED BY THE BOARD OF REGENTS IN THE RULES OF THE BOARD OF REGENTS.

S 7. This act shall take effect immediately; provided that the amendments to subdivision 1 of section 2856 of the education law made by section one of this act shall be subject to the expiration and reversion of such subdivision pursuant to subdivision d of section 27 of chapter 378 of the laws of 2007, as amended, when upon such date the provisions of section two of this act shall take effect.

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

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

PART B

Section 1. Subparagraph 1 of paragraph a 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:

(1) [The] (I) FOR SCHOOL YEARS PRIOR TO THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR, annual professional performance reviews conducted pursuant to this section for classroom teachers and building principals shall differentiate teacher and principal effectiveness using

the following quality rating categories: highly effective, effective, developing and ineffective, with explicit minimum and maximum scoring ranges for each category, for the state assessments and other comparable measures subcomponent of the evaluation and for the locally selected measures of student achievement subcomponent of the evaluation, as prescribed in the regulations of the commissioner. There shall be: [(i)] (A) a state assessments and other comparable measures subcomponent which shall comprise twenty or twenty-five percent of the evaluation; [(ii)] (B) a locally selected measures of student achievement subcomponent which shall comprise twenty or fifteen percent of the evaluation; and [(iii)] (C) an other measures of teacher or principal effectiveness subcomponent which shall comprise the remaining sixty percent of the evaluation, which in sum shall constitute the composite teacher or principal effectiveness score. Such annual professional performance reviews shall result in a single composite teacher or principal effectiveness score, which incorporates multiple measures of effectiveness related to the criteria included in the regulations of the commissioner.

(II) FOR THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR AND THEREAFTER, ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED PURSUANT TO THIS SECTION FOR CLASSROOM TEACHERS AND BUILDING PRINCIPALS SHALL DIFFERENTIATE TEACHER AND PRINCIPAL EFFECTIVENESS USING THE FOLLOWING QUALITY RATING CATEGORIES: HIGHLY EFFECTIVE, EFFECTIVE, DEVELOPING AND INEFFECTIVE, WITH EXPLICIT MINIMUM AND MAXIMUM SCORING RANGES FOR EACH CATEGORY, FOR THE STATE ASSESSMENTS AND OTHER COMPARABLE MEASURES SUBCOMPONENT AND THE OTHER MEASURES OF TEACHER AND LEADER EFFECTIVENESS SUBCOMPONENT, AS PRESCRIBED IN THE REGULATIONS OF THE COMMISSIONER. THERE SHALL BE: (A) A STATE ASSESSMENTS AND OTHER COMPARABLE MEASURES SUBCOMPONENT WHICH SHALL COMPRISE FIFTY PERCENT OF THE EVALUATION; AND (B) AN OTHER MEASURES OF TEACHER OR PRINCIPAL EFFECTIVENESS SUBCOMPONENT WHICH SHALL COMPRISE THE REMAINING FIFTY PERCENT OF THE EVALUATION, PURSUANT TO CRITERIA INCLUDED IN THE REGULATIONS OF THE COMMISSIONER.

S 2. Subparagraphs 3, 4, 5, 6, 7 and 8 of paragraph a of subdivision 2 of section 3012-c of the education law, as amended by chapter 21 of the laws of 2012, are amended to read as follows:

(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], TWO THOUSAND THIRTEEN--TWO THOUSAND FOURTEEN AND TWO THOUSAND FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEARS 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], TWO THOUSAND THIRTEEN--TWO THOUSAND FOURTEEN AND TWO THOUSAND FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEARS 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], TWO THOUSAND THIRTEEN--TWO THOUSAND FOURTEEN AND TWO THOUSAND FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEARS 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], TWO THOU-

SAND THIRTEEN--TWO THOUSAND FOURTEEN AND TWO THOUSAND FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEARS 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) (A) For the two thousand thirteen--two thousand fourteen [school year] AND TWO THOUSAND FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEARS 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.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, FOR THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR AND THEREAFTER, A CLASSROOM TEACHER AND BUILDING PRINCIPAL SHALL RECEIVE RATINGS ON THE STATE GROWTH OR OTHER COMPARABLE MEASURES SUBCOMPONENT AND THE OTHER MEASURES OF TEACHER AND PRINCIPAL EFFECTIVENESS SUBCOMPONENT PURSUANT TO SCORING RANGES PRESCRIBED BY THE COMMISSIONER IN REGULATIONS. THE COMMISSIONER SHALL REVIEW THE OVERALL COMPOSITE SCORING RANGES ANNUALLY BEFORE THE START OF EACH SCHOOL YEAR AND MAY ISSUE NEW REGULATIONS AS HE OR SHE DEEMS WARRANTED. PROVIDED; HOWEVER, IF A CLASSROOM TEACHER OR BUILDING PRINCIPAL RECEIVES AN INEFFECTIVE RATING ON ANY ONE OF THESE SUBCOMPONENTS, THE HIGHEST OVERALL COMPOSITE RATING HE OR SHE MAY RECEIVE IS DEVELOPING.

(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. Subparagraphs 2 and 3 of paragraph c of subdivision 2 of section 3012-c of the education law, as amended by chapter 21 of the laws of 2012, are amended to read as follows:

(2) Subject to paragraph k of this subdivision, FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN AND THE TWO THOUSAND THIRTEEN--TWO THOUSAND FOURTEEN SCHOOL YEARS, 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 IN SCHOOL YEARS WHERE APPLICABLE, 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.

S 4. Subparagraph 1 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:

(1) For annual professional performance reviews conducted in accordance with paragraph c of this subdivision for the two thousand twelve--two thousand thirteen [school year and thereafter], TWO THOUSAND THIRTEEN--TWO THOUSAND FOURTEEN AND TWO THOUSAND FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEARS 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, forty percent of the composite score of effectiveness shall be based on student achievement measures as follows: (i) twenty percent of the evaluation shall be based upon student growth data on state assessments as prescribed by the commissioner or a comparable measure of student growth if such growth data is not available; and (ii) twenty percent shall be based on other locally selected measures of student achievement that are determined to be rigorous and comparable across classrooms in accordance with the regulations of the commissioner and as are developed locally in a manner consistent with procedures negotiated pursuant to the requirements of article fourteen of the civil service law.

S 5. Paragraph f of subdivision 2 of section 3012-c of the education law is amended by adding a new subparagraph 5 to read as follows:

(5) FOR THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR AND THEREAFTER, FIFTY PERCENT OF A CLASSROOM TEACHER'S OR BUILDING PRINCIPAL'S COMPOSITE EFFECTIVENESS SCORE SHALL BE BASED ON STUDENT GROWTH ON STATE ASSESSMENTS, WHERE APPLICABLE, OR OTHER COMPARABLE MEASURES OF STUDENT GROWTH, AS PRESCRIBED BY THE COMMISSIONER IN REGULATIONS; PROVIDED THAT SUCH REGULATIONS SHALL REQUIRE THAT ANY COMPARABLE MEASURES OF STUDENT GROWTH BE MEASURED ON AN ANNUAL BASIS. FOR THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR AND THEREAFTER, THERE SHALL BE NO LOCALLY SELECTED MEASURES OF STUDENT ACHIEVEMENT SUBCOMPONENT.

S 6. Paragraphs h, i and j of subdivision 2 of section 3012-c of the education law, paragraph h as amended and paragraph j as added by chapter 21 of the laws of 2012 and paragraph i as added by chapter 103 of the laws of 2010, are amended to read as follows:

h. [The] FOR SCHOOL YEARS PRIOR TO THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR, THE remaining sixty percent of the evalu-

ations, ratings and effectiveness scores shall be locally developed, AND FOR THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR AND THEREAFTER, THE REMAINING FIFTY 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, EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION.

(1) [A] (I) FOR SCHOOL YEARS PRIOR TO THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR, 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.

(II) FOR THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR AND THEREAFTER, A MINIMUM OF THIRTY-FIVE OF THE FIFTY POINTS MUST BE BASED ON ONE OR MORE CLASSROOM OBSERVATIONS CONDUCTED BY AN INDEPENDENT EVALUATOR, AT LEAST ONE OF WHICH MUST BE UNANNOUNCED. AN INDEPENDENT EVALUATOR SHALL BE ONE OF THE FOLLOWING:

(A) A BUILDING PRINCIPAL OR OTHER TRAINED ADMINISTRATOR WITHIN OR OUTSIDE THE SCHOOL DISTRICT, WITH A DEMONSTRATED RECORD OF EFFECTIVENESS AS DETERMINED BY THE COMMISSIONER, AND WHO IS NOT CURRENTLY ASSIGNED AS A PRINCIPAL OR ADMINISTRATOR IN THE SCHOOL IN WHICH HE OR SHE IS CONDUCTING THE EVALUATION; OR

(B) A TRAINED INDEPENDENT EVALUATOR FROM A LIST OF ENTITIES AND/OR EVALUATORS WITH A DEMONSTRATED RECORD OF EFFECTIVENESS AND EXPERTISE IN TEACHER TRAINING, OBSERVATION, OR EFFECTIVENESS, AS DETERMINED BY THE COMMISSIONER INCLUDING BUT NOT LIMITED TO RETIRED TEACHERS AND ADMINISTRATORS; OR

(C) APPOINTED FACULTY AT A STATE UNIVERSITY OF NEW YORK OR A CITY UNIVERSITY OF NEW YORK SCHOOL OF EDUCATION. PROVIDED HOWEVER THAT, THE DEPARTMENT SHALL PROVIDE TECHNICAL ASSISTANCE FOR SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE EDUCATIONAL SERVICES INCLUDING BUT NOT LIMITED TO:

(A) FACILITATING PARTNERSHIPS FOR SCHOOL DISTRICTS TO IMPLEMENT SHARED SERVICE AGREEMENTS IN ORDER TO ACCESS NEIGHBORING PRINCIPALS OR TRAINED ADMINISTRATORS;

(B) DEVELOPING AND MAINTAINING A LIST OF ENTITIES AND/OR EVALUATORS WITH A DEMONSTRATED RECORD OF EFFECTIVENESS AND EXPERTISE IN TEACHER TRAINING, OBSERVATION, OR EFFECTIVENESS; OR

(C) ASSISTING SCHOOL DISTRICTS IN DEVELOPING SCHEDULES FOR SHARING ADMINISTRATORS WITHIN A SCHOOL DISTRICT; OR

(D) COORDINATING WITH BOARDS OF COOPERATIVE EDUCATIONAL SERVICES TO PROVIDE ADDITIONAL TECHNICAL ASSISTANCE.

(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] TWO THOUSAND THIRTEEN--TWO THOUSAND FOURTEEN AND TWO THOUSAND FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEARS, 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] FOR EVALUATIONS OF CLASSROOM TEACHERS FOR THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR AND THEREAFTER, THE REMAINING PORTION OF THE FIFTY POINTS SHALL BE BASED ON ONE OR MORE CLASSROOM OBSERVATIONS CONDUCTED BY A PRINCIPAL OR OTHER TRAINED ADMINISTRATOR, WHICH MAY BE PERFORMED IN-PERSON OR BY VIDEO AND AT LEAST ONE SUCH OBSERVATION SHALL BE AN UNANNOUNCED VISIT.

(5) (I) FOR SCHOOL YEARS PRIOR TO THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR, 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.

[(5)] (6) FOR EVALUATIONS OF BUILDING PRINCIPALS FOR THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR AND THEREAFTER, A MINIMUM OF THIRTY-FIVE OF THE FIFTY POINTS SHALL BE BASED ON A BROAD ASSESSMENT OF THE PRINCIPAL'S LEADERSHIP AND MANAGEMENT ACTIONS BASED ON THE PRINCIPAL PRACTICE RUBRIC AS DETERMINED BY AN INDEPENDENT OBSERVER FOLLOWING ONE OR MORE SCHOOL VISITS, AT LEAST ONE OF WHICH MUST BE UNANNOUNCED. AN INDEPENDENT OBSERVER SHALL BE ONE OF THE FOLLOWING:

(I) A SUPERINTENDENT OR OTHER TRAINED ADMINISTRATOR THAT SUPERVISES PRINCIPALS FROM OUTSIDE THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES WITH A DEMONSTRATED RECORD OF EFFECTIVENESS, OR

(II) A TRAINED INDEPENDENT EVALUATOR FROM A LIST OF ENTITIES AND/OR EVALUATORS WITH A DEMONSTRATED RECORD OF EFFECTIVENESS AND EXPERTISE IN SCHOOL BUILDING LEADER TRAINING, OBSERVATION, OR EFFECTIVENESS, AS DETERMINED BY THE COMMISSIONER, OR

(III) APPOINTED FACULTY AT A STATE UNIVERSITY OF NEW YORK OR A CITY UNIVERSITY OF NEW YORK SCHOOL OF EDUCATION.

PROVIDED THAT, THE DEPARTMENT SHALL PROVIDE TECHNICAL ASSISTANCE FOR SCHOOL DISTRICTS INCLUDING BUT NOT LIMITED TO:

(A) FACILITATING PARTNERSHIPS FOR SCHOOL DISTRICTS TO IMPLEMENT SHARED SERVICE AGREEMENTS IN ORDER TO ACCESS NEIGHBORING SUPERINTENDENTS OR OTHER TRAINED ADMINISTRATORS THAT SUPERVISE PRINCIPALS; OR

(B) DEVELOPING AND MAINTAINING A LIST OF ENTITIES AND/OR EVALUATORS WITH A DEMONSTRATED RECORD OF EFFECTIVENESS AND EXPERTISE IN SCHOOL BUILDING LEADER TRAINING, OBSERVATION, OR EFFECTIVENESS, AS DETERMINED BY THE COMMISSIONER, INCLUDING BUT NOT LIMITED TO RETIRED ADMINISTRATORS; OR

(C) ASSISTING SCHOOL DISTRICTS IN DEVELOPING SCHEDULES FOR SHARING NON-SUPERVISING ADMINISTRATORS WITHIN A SCHOOL DISTRICT, IF APPLICABLE; OR

(D) COORDINATING WITH BOARDS OF COOPERATIVE EDUCATIONAL SERVICES TO PROVIDE ADDITIONAL TECHNICAL ASSISTANCE.

(7) For evaluations of building principals for the two thousand twelve--two thousand thirteen [school year and thereafter], TWO THOUSAND THIRTEEN--TWO FOURTEEN AND THE TWO THOUSAND FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEARS, the remaining portion of these sixty points shall include, in addition to the requirements of subparagraph three of this paragraph, at least two other sources of evidence from the following options: feedback from teachers, students, and/or families using state-approved instruments; school visits by other trained evaluators; and/or review of school documents, records, and/or state accountability processes. Any such remaining points shall be assigned based on the results of one or more ambitious and measurable goals set collaboratively with principals and their superintendents or district superintendents as follows:

(i) at least one goal must address the principal's contribution to improving teacher effectiveness, which shall include one or more of the following: improved retention of high performing teachers, the correlation between student growth scores of teachers granted tenure as opposed to those denied tenure; or improvements in the proficiency rating of the principal on specific teacher effectiveness standards in the principal practice rubric.

(ii) any other goals shall address quantifiable and verifiable improvements in academic results or the school's learning environmental such as student or teacher attendance.

[(6) The] (8) FOR EVALUATIONS OF BUILDING PRINCIPALS FOR THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR AND THEREAFTER, THE REMAINING PORTION OF THE FIFTY POINTS 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, WITH AT LEAST ONE UNANNOUNCED VISIT.

(9) FOR SCHOOL YEARS PRIOR TO THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR, THE district or board of cooperative educational services shall establish specific minimum and maximum scoring ranges for each performance level within this subcomponent before the start of each school year and shall assign points to a teacher or principal for this subcomponent based on the standards prescribed in the regulations of the commissioner, all in accordance with, and subject to, the requirements of paragraph j of this subdivision. FOR THE TWO THOUSAND FIFTEEN--SIXTEEN SCHOOL YEAR AND THEREAFTER, THE COMMISSIONER SHALL ESTABLISH IN REGULATIONS THE MINIMUM AND MAXIMUM SCORING RANGES FOR EACH PERFORMANCE LEVEL WITHIN THIS SUBCOMPONENT.

i. For purposes of this section, student growth means the change in student achievement for an individual student between two or more points in time.

j. (1) The process by which points are assigned in subcomponents and the scoring ranges for the subcomponents must be transparent and available to those being rated before the beginning of each school year. The process by which points are assigned in the respective subcomponents are to be determined as follows:

(i) For the state assessment or other comparable measures subcomponent, that process shall be formulated by the commissioner with the approval of the board of regents.

(ii) For SCHOOL YEARS PRIOR TO THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR, FOR the locally selected measures of the student achievement subcomponent, that process shall be established locally through negotiations conducted under article fourteen of the civil service law.

(iii) For the other measures of teacher and principal effectiveness subcomponent, that process shall be established locally through negotiations conducted under article fourteen of the civil services law.

(2) Such process must ensure that it is possible for a teacher or principal to obtain each point in the applicable scoring ranges, including zero, for the state assessment or other comparable measures subcomponent, the locally selected measures of student achievement subcomponent IN SCHOOL YEARS WHERE APPLICABLE, and the overall rating categories. The process must also ensure that it is possible for a teacher or principal to obtain each point in the scoring ranges prescribed by the district or board of cooperative educational services for the other measures of teacher and principal effectiveness subcomponent.

(3) The superintendent, district superintendent or chancellor and the president of the collective bargaining representative (where one exists) shall certify in its plan that the process will use the narrative descriptions of the standards for the scoring ranges provided in the regulations of the commissioner to effectively differentiate a teacher or principal's performance in each of the subcomponents and in their overall ratings to improve student learning and instruction.

(4) [The] FOR SCHOOL YEARS PRIOR TO THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR, scoring ranges for the other measures of teacher and principal effectiveness subcomponent shall be established locally through negotiations conducted under article fourteen of the civil service law. FOR THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR AND THEREAFTER, THE SCORING RANGES FOR THE OTHER MEASURES OF TEACHER AND PRINCIPAL EFFECTIVENESS SUBCOMPONENT SHALL BE ESTABLISHED BY THE COMMISSIONER IN REGULATIONS.

S 7. Section 3012-c of the education law is amended by adding a new subdivision 11 to read as follows:

11. A. A STUDENT MAY NOT BE INSTRUCTED FOR TWO CONSECUTIVE SCHOOL YEARS BY TWO CONSECUTIVE CLASSROOM TEACHERS IN THE SAME DISTRICT, EACH OF WHOM RECEIVED A FINAL QUALITY RATING OF INEFFECTIVE UNDER AN ANNUAL PROFESSIONAL PERFORMANCE REVIEW CONDUCTED PURSUANT TO THIS SECTION IN THE SCHOOL YEAR IMMEDIATELY BEFORE THE SCHOOL YEAR IN WHICH THE STUDENT IS PLACED IN THE RESPECTIVE CLASSROOM TEACHER'S CLASS.

B. IF A CLASSROOM TEACHER DID NOT INSTRUCT STUDENTS IN THE SCHOOL YEAR IMMEDIATELY BEFORE THE SCHOOL YEAR IN WHICH THE STUDENTS ARE PLACED IN THE TEACHER'S CLASS, THE TEACHER'S RATING IN THE MOST RECENT YEAR IN WHICH THE TEACHER INSTRUCTED STUDENTS, INSTEAD OF THE SCHOOL YEAR IMMEDIATELY BEFORE THE SCHOOL YEAR IN WHICH STUDENTS ARE PLACED IN THE CLASSROOM TEACHER'S CLASS, SHALL BE USED IN DETERMINING THE RATINGS FOR PURPOSES OF THIS SUBDIVISION.

S 8. This act shall take effect immediately.

PART C

Intentionally omitted.

PART D

Intentionally omitted.

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

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