STATE OF NEW YORK

S. 3914 A. 3819

2017-2018 Regular Sessions

SENATE - ASSEMBLY

January 30, 2017

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

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

AN ACT to amend the education law, in relation to the practice and licensure of teachers and teaching assistants

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The education law is amended by adding a new article 169 to read as follows:

ARTICLE 169
TEACHING PROFESSION

Section 8900. Introduction.
8901. Definitions.
8902. Definition of the practice of teaching.
8903. Practice of teaching and use of title "professional teacher" or "licensed teaching assistant".
8904. State board for teaching.
8905. Types of licenses.
8906. Requirements for a professional teacher's license.
8907. Requirements for a license as a teaching assistant.
8908. Limited permits.
8909. Exempt persons.
8910. Special provisions.
8911. Disciplinary procedures and remedies.
8912. Penalties upon conviction of a felony.

§ 8900. Introduction. This article applies to the profession of teaching. Except as otherwise provided in this article, the general

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

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provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 8901. Definitions. As used in this article:

1. "Professional teacher" means a person licensed or otherwise authorized pursuant to this article to practice teaching in the public schools and nonpublic schools or in any program for the education of children with disabilities or preschool children with disabilities, provided that such term shall not include a licensed teaching assistant.

2. "Licensed teaching assistant" means a person licensed or otherwise authorized pursuant to this article to practice as a teaching assistant in the public schools and nonpublic schools or in any program for the education of children with disabilities or preschool children with disabilities.

3. "State board" means the state board for teaching.

4. "Superintendent of schools" means the chief school officer of any public or nonpublic school district in the state, including the city school district of the city of New York and any community school district therein, or a district superintendent of schools.

§ 8902. Definition of the practice of teaching. 1. The practice of the profession of teaching as a professional teacher is defined as providing instruction or educational support services to pupils, when appointed or otherwise employed by the governing body of a public or nonpublic school district, a board of cooperative educational services, or a county vocational education and extension board, or when employed by any entity in a program for the education of children with disabilities or preschool children with disabilities.

2. The practice of teaching as a licensed teaching assistant is defined as assisting a professional teacher by providing direct instructional services to pupils under the general supervision of such teacher, when appointed, or otherwise employed, by the governing body of a public or nonpublic school district, a board of cooperative educational services, or a county vocational education and extension board, or when employed by any entity in a program for the education of children with disabilities or preschool children with disabilities.

§ 8903. Practice of teaching and use of title "professional teacher" or "licensed teaching assistant". Only a person licensed or otherwise authorized or exempted under this article may practice teaching, provided, however, that nothing in this article shall be construed as to require nonpublic schools to employ or preclude nonpublic schools from employing professional teachers or professional teaching assistants licensed pursuant to this article. Only a person licensed or otherwise authorized under this article to practice teaching as a professional teacher may use the title "professional teacher". Only a person licensed or otherwise authorized under this article to practice teaching as a teaching assistant may use the title "licensed teaching assistant."

§ 8904. State board for teaching. 1. A state board for teaching shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The commissioner may receive nominations for the teacher category of board membership from statewide teacher organizations representing teacher collective bargaining units and may receive nominations for the remaining categories of membership from appropriate statewide representative organizations, but the board of regents shall not be required to appoint candidates so nominated.

2. Notwithstanding any provisions of section sixty-five hundred eight of this title to the contrary, the state board for teaching shall have the composition prescribed in this subdivision. The state board shall consist of no less than twenty-four voting members, and shall be composed as follows:

a. Thirteen members or at least sixty percent of the total membership of the state board without rounding, whichever is greater, shall be professional teachers without administrative or supervisory duties who have been employed on a full-time basis for at least five years and who possess licenses as professional teachers; provided that services as a mentor or lead teacher shall not be considered administrative or supervisory duties for purposes of this paragraph;

b. One member shall be a professional teacher who has been employed on a full-time basis in a program for the education of children with disabilities or preschool children with disabilities and who possesses a license as a professional teacher;

c. One member shall be a licensed teaching assistant employed for at least five years;

d. One member shall be a superintendent or district superintendent of schools who as a school superintendent has practiced school superintendency for at least five years;

e. One member shall be an administrator;

f. One member shall be a public representative who is the parent of a child attending a public school or program for the education of children with disabilities or preschool children with disabilities at the time of appointment;

g. One member shall be a public representative who is the parent of a child attending a nonpublic school or program for the education of children with disabilities or preschool children with disabilities at the time of appointment;

h. One member shall be a public representative who is a member of the board of education of a public school district outside of the city of New York at the time of appointment;

i. One member shall be a public representative who is a member of the board of education of the city school district of the city of New York or the board of education of a community school district within the city of New York at the time of appointment;

j. Three members shall, at the time of appointment, be educators employed by an institution of higher education within New York state who have been directly involved in the preparation of teachers for at least five years;

k. No member appointed shall be counted in more than one category set forth in paragraphs a through j of this subdivision.

3. Each member of the state board shall be appointed for a term of five years, except that the terms of those first appointed shall be arranged so that as nearly as possible an equal number shall terminate annually. A vacancy occurring during a term shall be filled by appointment by the board of regents in accordance with subdivision one of this section for the unexpired term. In addition, the state board shall establish rosters of auxiliary members from candidates nominated by statewide teacher organizations representing teacher and teaching assistant collective bargaining units and professional associations of professional teachers and teaching assistants, for appointment by the board of regents, on the recommendation of the commissioner, to serve as members of the state board solely for the purposes of professional disciplinary proceedings, proceedings relating to the moral character of

an applicant for licensure and proceedings relating to applications for the restoration of a professional license.

§ 8905. Types of licenses. The commissioner may, in regulations approved by the board of regents after consultation with the state board, provide for the issuance of licenses, limited to specific areas in which an applicant is qualified to practice. If licenses are so limited, no person shall be authorized to provide teaching services pursuant to such license except in the area for which it is issued; provided that such regulations may authorize practice outside of the license area on an incidental basis, as defined in such regulations.

§ 8906. Requirements for a professional teacher's license. To qualify for a license as a professional teacher, an applicant shall fulfill the requirements prescribed by the commissioner in regulations approved by the board of regents after consultation with the state board, which, at a minimum, shall include the following:

1. Application: File an application with the department;

2. Education:

a. Initial requirements for the license shall include a bachelor's degree from a registered program or its equivalent, a passing score on state-required professional examinations, successful completion of a year-long supervised academic teaching internship in a public or nonpublic elementary and/or secondary school.

b. Maintenance of the license would require, every three years, having attained state-approved continuing or in-service education credits, with the following additions:

(1) Maintenance of registration after the second three-year period shall require an earned master's degree functionally related to the field of teaching service as well as evidence of satisfactory performance on state-sanctioned teacher specialty examinations and assessments of teaching skills.

(2) Age: Be at least eighteen years of age;

(3) Character: Be of good moral character as determined by the state board's codes of ethics and practice; and

(4) Fees: Pay the following fees to the department:

(i) A fee of one hundred thirty-five dollars for initial licensure, provided that only one such fee shall be payable for licensure of an applicant who simultaneously files multiple applications for licensure in different areas of teaching service;

(ii) If required pursuant to regulations of the commissioner, a fee for admission to licensing examinations and/or assessments and a fee for each re-examination;

(iii) A fee of one hundred thirty-five dollars for each triennial registration period.

§ 8907. Requirements for a license as a teaching assistant. 1. Temporary teaching assistant license. The department may issue temporary teaching assistant licenses, valid for one year and renewable at the discretion of the commissioner, to applicants who meet the requirements of this subdivision. To qualify for a temporary teaching assistant license, an applicant shall fulfill the requirements established by the commissioner in regulations approved by the board of regents after consultation with the state board, which, at a minimum, shall include the following:

a. Application: File an application with the department;

b. Education: Have received an education, including completion of high school or its equivalent, in accordance with the commissioner's regulations;

c. Training: Submit a certification by the superintendent of schools or other chief school officer of the employing school that in-service training will be provided to the applicant during the term of the temporary license in accordance with the commissioner's regulations;

d. Age: Be at least eighteen years of age;

e. Character: Be of good moral character as determined by the department; and

f. Fees: Pay a fee of fifty dollars for an annual temporary license.

g. Registration: A licensee holding a valid temporary license shall be deemed registered during the term of the temporary license without the payment of a registration fee, except that this paragraph shall not apply to a licensee practicing under a professional license as a teaching assistant.

2. Professional license. In order to qualify for a professional license as a teaching assistant, an applicant shall fulfill all of the requirements for a temporary license and the following additional requirements:

a. Application: File an application with the department;

b. Education: Have completed additional education and/or training in accordance with the commissioner's regulations;

c. Experience: Have completed one year of satisfactory experience as a teaching assistant, or equivalent experience as prescribed in the commissioner's regulations; and

d. Fees: Pay a fee of fifty dollars for a professional license and a fee of fifty dollars for each triennial registration period.

§ 8908. Limited permits. 1. The commissioner may, in regulations approved by the board of regents after consultation with the state board, provide for the issuance of permits to practice teaching that are limited as to eligibility, practice and duration. Upon approval of the commissioner, a person having special qualifications, as defined by the commissioner in regulation, may be issued a limited permit as a visiting lecturer.

2. Except as otherwise provided in the regulations of the commissioner, a limited permit issued pursuant to this section shall be limited in duration to one school year. A permit may be renewed to the extent provided in the regulations of the commissioner.

3. Fees. The fee for a limited permit shall be prescribed by the commissioner by regulation.

§ 8909. Exempt persons. The following persons under the following limitations may practice teaching within the state without a license or limited permit issued pursuant to this article.

1. A student enrolled in an approved teacher education program as part of a supervised practicum.

2. A teacher or teaching assistant employed by a nonpublic school including a nonpublic school which operates a program serving school-age and pre-school children with disabilities.

§ 8910. Special provisions. 1. Any person who, on the effective date of this article, holds a permanent certificate valid for teaching or pupil personnel service by the state of New York pursuant to section three thousand four of this chapter or was licensed as a teacher by the city school district of the city of Buffalo or New York, or who was otherwise deemed certified or licensed as a teacher by any provision of law, shall be deemed professionally licensed pursuant to this article provided that any new requirements or standards applicable to the practice of teaching shall apply to such persons at the end of three years, when triennial registrations must be maintained.

2. Any person who, on the effective date of this article, holds a provisional certificate as a teacher may be issued a professional license pursuant to this article upon fulfillment of the requirements for permanent certification or licensure in effect when the provisional certificate was issued. Such exemption shall lapse upon expiration of the term or time validity of the provisional certificate.

3. The holder of such a permanent certificate or provisional certificate or license shall be deemed to be the holder of a professional teachers license for all purposes under this chapter.

4. This special provision shall extend only to the practice of teaching in the area in which such person holds such certification or license.

5. Any person who, on the effective date of this article, possesses a valid continuing certificate as a teaching assistant that was issued pursuant to section three thousand four of this chapter and the regulations of the commissioner or a valid license as a teaching assistant issued by the city school district of the city of Buffalo or a valid license issued by the city school district of the city of New York for the titles of teacher aides, educational assistance, educational associate, auxiliary trainer, bilingual professional assistant, teacher's assistant or substitute vocational assistant, shall be deemed to hold a permanent license as a teaching assistant issued pursuant to this article; except that any new requirements or standards applicable to the practice of teaching as a teaching assistant shall apply to such persons at the end of three years when triennial registrations must be maintained.

§ 8911. Disciplinary procedures and remedies. 1. In addition to the offenses listed in section sixty-five hundred nine of this title, a professional teacher or licensed teaching assistant may be found guilty of gross pedagogical incompetency, which shall include, but not be limited to, lack of substantive knowledge of the subject matter in the license area for which a license has been granted, lack of skills appropriate to teaching in the license area or lack of continued compliance with any ground or condition for obtaining a license.

2. Hearings on complaints of gross pedagogical incompetency. Except as otherwise provided in this subdivision, hearings in contested disciplinary proceedings in the teaching profession shall be conducted in accordance with subdivision three of section sixty-five hundred ten of this title.

3. Hearing panel for complaints of gross pedagogical incompetency. For complaints of gross pedagogical incompetency, a hearing shall be conducted before a five-member hearing panel composed of three voting members of the state board for teaching, at least one of whom shall be a public representative, and two auxiliary members of the state board appointed by the board of regents pursuant to subdivision three of section eighty-nine hundred four of this article. The state board shall maintain lists of auxiliary state board members composed of practicing professional teachers in each license area, and a list composed of practicing licensed teaching assistants. The commissioner shall appoint to each such hearing panel two auxiliary state board members from the list which corresponds to the license area of the licensee who is charged with gross pedagogical incompetency, provided that such appointments may be made from the list for any license area in the event that the applicable list is exhausted.

4. In the event that the board of regents issues an order revoking the license of a professional teacher or licensed teaching assistant, or in

the event of failure to maintain registration pursuant to section eighty-nine hundred six of this article the employing school district or board shall be authorized to suspend such individual without pay pending a final decision on judicial review of such order; provided that if, upon completion of judicial review, the order revoking the license or denying registration of the professional teacher or licensed teaching assistant is annulled and such license is restored or registration granted, the licensee shall be entitled to reinstatement and full pay for any period of suspension. If, upon completion of judicial review, the order of the regents revoking the license or denying registration is sustained, the teacher or teaching assistant shall be deemed to have vacated his or her position of employment as of the date the registration expired or as of the date the license is surrendered to the department or five days after the effective date of service of the regents order, whichever is earlier.

§ 8912. Penalties upon conviction of a felony. Notwithstanding the provisions of section sixty-five hundred eleven of this title, a teacher or teaching assistant convicted of a felony shall automatically lose his or her license.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.