

# STATE OF NEW YORK

8992

## IN SENATE

June 11, 2018

Introduced by Sen. FLANAGAN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the education law, in relation to annual professional performance review of classroom teachers and building principals; in relation to increasing the number of charters issued; to amend the executive law, in relation to expanding the scope of unlawful discriminatory practices to include public educational institutions; to amend subpart B of part AA of chapter 56 of the laws of 2014 amending the education law relating to providing that standardized test scores shall not be included on a student's permanent record, in relation to making such provisions permanent; to amend the education law, in relation to reducing the probationary period for assistants and other superintendents, teachers and other employees; and to repeal certain provisions of the education law relating thereto

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

1 Section 1. Section 3012-c of the education law is REPEALED.

2 § 2. Section 3012-d of the education law is REPEALED.

3 § 3. The education law is amended by adding a new section 3012-b to  
4 read as follows:

5 § 3012-b. Annual professional performance review of classroom teachers  
6 and building principals. 1. Notwithstanding any other provision of law,  
7 rule or regulation to the contrary, the annual professional performance  
8 reviews of all classroom teachers and building principals employed by  
9 school districts or boards of cooperative educational services shall be  
10 conducted in accordance with the provisions of this section.

11 2. Annual professional performance reviews shall be determined through  
12 collective bargaining, provided however that the content of such annual  
13 professional performance reviews shall comply with the provisions of  
14 subdivision forty-nine of section three hundred five of this chapter and  
15 shall not unnecessarily increase the amount of tests students are  
16 required to take in a particular school year. The department may issue  
17 guidelines to help school districts and boards of cooperative educa-

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

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1 tional services determine the content of such annual professional  
2 performance reviews.

3 3. Classroom teachers and building principals shall receive final  
4 annual professional performance review ratings of either: (i) highly  
5 effective; (ii) effective; (iii) developing; or (iv) ineffective. The  
6 process and parameters for determining each rating shall be determined  
7 by the school district or board of cooperative educational services  
8 through collective bargaining.

9 4. Notwithstanding any other provision of law, rule, or regulation to  
10 the contrary until a successor collective bargaining agreement is  
11 entered into, the provisions of the collective bargaining agreement in  
12 effect on the effective date of this section relating to annual profes-  
13 sional performance reviews conducted pursuant to former section three  
14 thousand twelve-d of this article shall remain in effect.

15 5. Notwithstanding any other provision of law, rule or regulation to  
16 the contrary, all collective bargaining agreements entered into after  
17 the effective date of this section shall be consistent with the require-  
18 ments of this section, unless the agreement relates to the two thousand  
19 seventeen--two thousand eighteen school year only. Nothing in this  
20 section shall be construed to abrogate any conflicting provisions of any  
21 collective bargaining agreement in effect prior to the effective date of  
22 this section during the term of such agreement and until the entry into  
23 a successor collective bargaining agreement, provided that notwithstand-  
24 ing any other provision of law to the contrary, upon expiration of such  
25 term and the entry into a successor collective bargaining agreement the  
26 provisions of this section shall apply.

27 § 4. Subdivision 9 of section 2852 of the education law, as amended by  
28 section 2 of subpart A of part B of chapter 20 of the laws of 2015, is  
29 amended to read as follows:

30 9. The total number of charters issued pursuant to this article state-  
31 wide shall not exceed four hundred sixty. (a) All charters issued on or  
32 after July first, two thousand fifteen and counted toward the numerical  
33 limits established by this subdivision shall be issued by the board of  
34 regents upon application directly to the board of regents or on the  
35 recommendation of the board of trustees of the state university of New  
36 York pursuant to a competitive process in accordance with subdivision  
37 nine-a of this section. [~~Fifty~~ **Ninety percent** of such charters issued  
38 **annually** on or after [~~July first, two thousand fifteen,~~ **the effective**  
39 **date of the chapter of the laws of two thousand eighteen that amended**  
40 **this subdivision** and no more, shall be granted to a charter for a school  
41 to be located in a city having a population of one million or more. The  
42 failure of any body to issue the regulations authorized pursuant to this  
43 article shall not affect the authority of a charter entity to propose a  
44 charter to the board of regents or the board of regents' authority to  
45 grant such charter. A conversion of an existing public school to a char-  
46 ter school, or the renewal or extension of a charter approved by any  
47 charter entity, shall not be counted toward the numerical limits estab-  
48 lished by this subdivision.

49 (b) A charter that has been surrendered, revoked or terminated [~~on or~~  
50 ~~before July first, two thousand fifteen,~~ including a charter that has  
51 not been renewed by action of its charter entity, may be reissued pursu-  
52 ant to paragraph (a) of this subdivision by the board of regents either  
53 upon application directly to the board of regents or on the recommenda-  
54 tion of the board of trustees of the state university of New York pursu-  
55 ant to a competitive process in accordance with subdivision nine-a of  
56 this section. Provided that such reissuance shall not be counted toward

1 the statewide numerical limit established by this subdivision~~[, and~~  
2 ~~provided further that no more than twenty-two charters may be reissued~~  
3 ~~pursuant to this paragraph]~~.

4 (c) For purposes of determining the total number of charters issued  
5 within the numerical limits established by this subdivision, the  
6 approval date of the charter entity shall be the determining factor.

7 (d) Notwithstanding any provision of this article to the contrary, any  
8 charter authorized to be issued by chapter fifty-seven of the laws of  
9 two thousand seven effective July first, two thousand seven, and that  
10 remains unissued as of July first, two thousand fifteen, may be issued  
11 pursuant to the provisions of law applicable to a charter authorized to  
12 be issued by such chapter in effect as of June fifteenth, two thousand  
13 fifteen~~[, provided however that nothing in this paragraph shall be~~  
14 ~~construed to increase the numerical limit applicable to a city having a~~  
15 ~~population of one million or more as provided in paragraph (a) of this~~  
16 ~~subdivision, as amended by a chapter of the laws of two thousand fifteen~~  
17 ~~which added this paragraph]~~.

18 § 5. Subdivision 9 of section 2852 of the education law, as amended by  
19 section 2 of subpart A of part B of chapter 20 of the laws of 2015, is  
20 amended to read as follows:

21 9. The total number of charters issued pursuant to this article state-  
22 wide shall not exceed [~~four~~] **five** hundred sixty. (a) All charters issued  
23 on or after July first, two thousand fifteen and counted toward the  
24 numerical limits established by this subdivision shall be issued by the  
25 board of regents upon application directly to the board of regents or on  
26 the recommendation of the board of trustees of the state university of  
27 New York pursuant to a competitive process in accordance with subdivi-  
28 sion nine-a of this section. [~~Fifty of such charters issued on or after~~  
29 ~~July first, two thousand fifteen, and no more, shall be granted to a~~  
30 ~~charter for a school to be located in a city having a population of one~~  
31 ~~million or more.] The failure of any body to issue the regulations  
32 authorized pursuant to this article shall not affect the authority of a  
33 charter entity to propose a charter to the board of regents or the board  
34 of regents' authority to grant such charter. A conversion of an existing  
35 public school to a charter school, or the renewal or extension of a  
36 charter approved by any charter entity, shall not be counted toward the  
37 numerical limits established by this subdivision.~~

38 (b) A charter that has been surrendered, revoked or terminated [~~on or~~  
39 ~~before July first, two thousand fifteen]~~, including a charter that has  
40 not been renewed by action of its charter entity, may be reissued pursu-  
41 ant to paragraph (a) of this subdivision by the board of regents either  
42 upon application directly to the board of regents or on the recommenda-  
43 tion of the board of trustees of the state university of New York pursu-  
44 ant to a competitive process in accordance with subdivision nine-a of  
45 this section. Provided that such reissuance shall not be counted toward  
46 the statewide numerical limit established by this subdivision~~[, and~~  
47 ~~provided further that no more than twenty-two charters may be reissued~~  
48 ~~pursuant to this paragraph]~~.

49 (c) For purposes of determining the total number of charters issued  
50 within the numerical limits established by this subdivision, the  
51 approval date of the charter entity shall be the determining factor.

52 (d) Notwithstanding any provision of this article to the contrary, any  
53 charter authorized to be issued by chapter fifty-seven of the laws of  
54 two thousand seven effective July first, two thousand seven, and that  
55 remains unissued as of July first, two thousand fifteen, may be issued  
56 pursuant to the provisions of law applicable to a charter authorized to

1 be issued by such chapter in effect as of June fifteenth, two thousand  
2 fifteen[~~, provided however that nothing in this paragraph shall be~~  
3 ~~construed to increase the numerical limit applicable to a city having a~~  
4 ~~population of one million or more as provided in paragraph (a) of this~~  
5 ~~subdivision, as amended by a chapter of the laws of two thousand fifteen~~  
6 ~~which added this paragraph~~].

7 § 5-a. The opening paragraph of paragraph (a) of subdivision 9-a of  
8 section 2852 of the education law, as amended by section 2 of subpart A  
9 of part B of chapter 20 of the laws of 2015, is amended to read as  
10 follows:

11 The board of regents is hereby authorized and directed to issue [~~four~~  
12 five] hundred sixty charters statewide upon either applications submitted  
13 directly to the board of regents or upon the recommendation of the board  
14 of trustees of the state university of New York pursuant to a compet-  
15 itive request for proposals process.

16 § 6. Subdivision 2 of section 3204 of the education law, as amended by  
17 section 1 of part SSS of chapter 59 of the laws of 2018, is amended to  
18 read as follows:

19 2. Quality and language of instruction; text-books. (i) Instruction  
20 may be given only by a competent teacher. In the teaching of the  
21 subjects of instruction prescribed by this section, English shall be the  
22 language of instruction, and text-books used shall be written in  
23 English, except that for a period of three years, which period may be  
24 extended by the commissioner with respect to individual pupils, upon  
25 application therefor by the appropriate school authorities, to a period  
26 not in excess of six years, from the date of enrollment in school,  
27 pupils who, by reason of foreign birth or ancestry have limited English  
28 proficiency, shall be provided with instructional programs as specified  
29 in subdivision two-a of this section and the regulations of the commis-  
30 sioner. The purpose of providing such pupils with instruction shall be  
31 to enable them to develop academically while achieving competence in the  
32 English language. Instruction given to a minor elsewhere than at a  
33 public school shall be at least substantially equivalent to the instruc-  
34 tion given to minors of like age and attainments at the public schools  
35 of the city or district where the minor resides.

36 (ii) For purposes of considering substantial equivalence pursuant to  
37 this subdivision for nonpublic elementary and middle schools that are:  
38 (1) non-profit corporations, (2) have a bi-lingual program, and (3) have  
39 an educational program that extends from no later than nine a.m. until  
40 no earlier than four p.m. for grades one through [~~three, and no earlier~~  
41 ~~than five thirty p.m. for grades four through~~] eight, on the majority of  
42 weekdays to meet the requirements of this section, the department shall  
43 consider the following, but not limited to: if the curriculum provides  
44 academically rigorous instruction that develops critical thinking skills  
45 in the school's students, taking into account the entirety of the  
46 curriculum, over the course of elementary and middle school, including  
47 instruction in English [~~that will~~] to prepare pupils to read fiction and  
48 nonfiction text for information and to use that information to construct  
49 written essays that state a point of view or support an argument;  
50 instruction in mathematics [~~that will~~] to prepare pupils to solve real  
51 world problems using both number sense and fluency with mathematical  
52 functions and operations; instruction in history [~~by being able~~] to  
53 prepare pupils to interpret and analyze primary text to identify and  
54 explore important events in history, to construct written arguments  
55 using the supporting information they get from primary source material,  
56 demonstrate an understating of the role of geography and economics in

1 the actions of world civilizations, and an understanding of civics and  
2 the responsibilities of citizens in world communities; and instruction  
3 in science [~~by learning~~] to teach pupils how to gather, analyze and  
4 interpret observable data to make informed decisions and solve problems  
5 mathematically, using deductive and inductive reasoning to support a  
6 hypothesis, and how to differentiate between correlational and causal  
7 relationships.

8 (iii) For purposes of considering substantial equivalence pursuant to  
9 this subdivision for nonpublic high schools that: (1) are established  
10 for pupils in high school who have graduated from an elementary school  
11 that provides instruction as described in this section, (2) are a non-  
12 profit corporation, (3) have a bi-lingual program, and (4) have an  
13 educational program that extends from no later than nine a.m. until no  
14 earlier than [~~six~~] four-thirty p.m. on the majority of weekdays to meet  
15 the requirements of this section the department shall consider the  
16 following but not limited to: if the curriculum provides academically  
17 rigorous instruction that develops critical thinking skills in the  
18 school's students, the outcomes of which, taking into account the  
19 entirety of the curriculum, result in a sound basic education.

20 (iv) Nothing herein shall be construed to entitle or permit any school  
21 to receive an increase in mandated services aid pursuant to 8 NYCRR 176  
22 on account of providing a longer school day.

23 (v) [~~The commissioner shall be the entity that determines whether~~  
24 ~~nonpublic elementary and secondary schools are in compliance with the~~  
25 ~~academic requirements set forth in paragraphs (ii) and (iii) of this~~  
26 ~~subdivision.~~] In determining compliance with the academic requirements  
27 set forth in paragraphs (ii) and (iii) of this subdivision, the commis-  
28 sioner shall designate an entity or entities with expertise in the  
29 curriculum of the schools described in paragraphs (ii) and (iii) of this  
30 subdivision to evaluate the schools' compliance with said requirements,  
31 and shall defer to such entity's expertise in making such evaluation.

32 (vi) For purposes of determining compliance with the academic require-  
33 ments set forth in paragraphs (ii) and (iii) of this subdivision, the  
34 determination shall be based solely on teaching the enumerated criteria  
35 contained therein; provided, however, that nothing in this paragraph  
36 shall prohibit schools from providing instruction in areas not enumer-  
37 ated within paragraphs (ii) and (iii) of this subdivision.

38 (vii) Upon a finding of non-compliance the following steps may be  
39 taken:

40 (a) The commissioner may issue a report recommending corrective  
41 actions to satisfy the academic requirements established herein.

42 (b) Such school may accept and implement the recommended corrective  
43 actions or establish its own plan for resolving the stated deficiencies,  
44 and be afforded adequate time to implement such corrective actions. Upon  
45 failure of a school to remedy the non-compliance, the commissioner may  
46 deem the school's curriculum to be deficient and place the school on  
47 probation for a period of one year. During such probationary period the  
48 school shall be required to retain and work with a curriculum specialist  
49 to further address and resolve the deficiencies and shall be subject to  
50 further and periodic monitoring by the commissioner until the deficien-  
51 cies are resolved pursuant to this subdivision.

52 (c) If a school is deemed not to be in compliance after the probation-  
53 ary period described above, the commissioner shall inform parents of  
54 students enrolled in such school that the instruction provided by the  
55 school was determined not to be in compliance.

1 § 7. Section 292 of the executive law is amended by adding a new  
2 subdivision 35 to read as follows:

3 35. The term "educational institution" shall mean:

4 (a) any education corporation or association which holds itself out to  
5 the public to be non-secretarian and exempt from taxation pursuant to  
6 the provisions of article four of the real property tax law; or

7 (b) any public school, including any school district, board of cooper-  
8 ative education services, public college or public university.

9 § 8. Subdivision 4 of section 296 of the executive law, as amended by  
10 chapter 106 of the laws of 2003, is amended to read as follows:

11 4. It shall be an unlawful discriminatory practice for an [~~education~~  
12 ~~corporation or association which holds itself out to the public to be~~  
13 ~~non-sectarian and exempt from taxation pursuant to the provisions of~~  
14 ~~article four of the real property tax law]~~ educational institution to  
15 deny the use of its facilities to any person otherwise qualified, or to  
16 permit the harassment of any student or applicant, by reason of his  
17 race, color, religion, disability, national origin, sexual orientation,  
18 military status, sex, age or marital status, except that any such insti-  
19 tution which establishes or maintains a policy of educating persons of  
20 one sex exclusively may admit students of only one sex.

21 § 9. Section 2 of subpart B of part AA of chapter 56 of the laws of  
22 2014 amending the education law relating to providing that standardized  
23 test scores shall not be included on a student's permanent record, as  
24 amended by section 35 of part CCC of chapter 59 of the laws of 2018, is  
25 amended to read as follows:

26 § 2. This act shall take effect immediately [~~and shall expire and be~~  
27 ~~deemed repealed on December 31, 2019~~].

28 § 10. Subdivisions 1 and 2 of section 2509 of the education law,  
29 subdivision 1 as amended by chapter 116 of the laws of 1971, paragraphs  
30 (a) and (b) of subdivision 1 as amended by section 1 and subdivision 2  
31 as amended by section 2 of subpart D of part EE of chapter 56 of the  
32 laws of 2015, are amended to read as follows:

33 1. (a) i. Teachers and all other members of the teaching staff  
34 appointed prior to July first, two thousand fifteen and authorized by  
35 section twenty-five hundred three of this article, shall be appointed by  
36 the board of education, upon the recommendation of the superintendent of  
37 schools, for a probationary period of three years, except that in the  
38 case of a teacher who has rendered satisfactory service as a regular  
39 substitute for a period of two years or as a seasonally licensed per  
40 session teacher of swimming in day schools who has served in that capac-  
41 ity for a period of two years and has been appointed to teach the same  
42 subject in day schools on an annual salary, the probationary period  
43 shall be limited to one year; provided, however, that in the case of a  
44 teacher who has been appointed on tenure in another school district  
45 within the state, the school district where currently employed, or a  
46 board of cooperative educational services, and who was not dismissed  
47 from such district or board as a result of charges brought pursuant to  
48 subdivision one of section three thousand twenty-a of this chapter, the  
49 probationary period shall not exceed two years. The service of a person  
50 appointed to any of such positions may be discontinued at any time  
51 during such probationary period, on the recommendation of the super-  
52 intendent of schools, by a majority vote of the board of education. Each  
53 person who is not to be recommended for appointment on tenure shall be  
54 so notified by the superintendent of schools in writing not later than  
55 sixty days immediately preceding the expiration of his probationary  
56 period.

1 ii. Notwithstanding any other provision of law or regulation to the  
2 contrary, teachers and all other members of the teaching staff appointed  
3 on or after July first, two thousand fifteen and authorized by section  
4 twenty-five hundred three of this article, shall be appointed by the  
5 board of education, upon the recommendation of the superintendent of  
6 schools, for a probationary period of [~~four~~ three years, except that in  
7 the case of a teacher who has rendered satisfactory service as a regular  
8 substitute for a period of two years and, if a classroom teacher, has  
9 received composite annual professional performance review ratings in  
10 each of those years, or has rendered satisfactory service as a  
11 seasonally licensed per session teacher of swimming in day schools who  
12 has served in that capacity for a period of two years and has been  
13 appointed to teach the same subject in day schools on an annual salary,  
14 the teacher shall be appointed for a probationary period of two years;  
15 provided, however, that in the case of a teacher who has been appointed  
16 on tenure in another school district within the state, the school  
17 district where currently employed, or a board of cooperative educational  
18 services, and who was not dismissed from such district or board as a  
19 result of charges brought pursuant to subdivision one of section three  
20 thousand twenty-a or section three thousand twenty-b of this chapter,  
21 the teacher shall be appointed for a probationary period of [~~three~~ two  
22 years; provided that the teacher demonstrates that he or she received an  
23 annual professional performance review rating pursuant to section [~~three~~  
24 ~~thousand twelve-c or section three thousand twelve-d~~] three thousand  
25 twelve-b of this chapter in his or her final year of service in such  
26 other school district or board of cooperative educational services. The  
27 service of a person appointed to any of such positions may be discontin-  
28 ued at any time during such probationary period, on the recommendation  
29 of the superintendent of schools, by a majority vote of the board of  
30 education. Each person who is not to be recommended for appointment on  
31 tenure shall be so notified by the superintendent of schools in writing  
32 not later than sixty days immediately preceding the expiration of  
33 his/her probationary period.

34 (b) i. Administrators, directors, supervisors, principals and all  
35 other members of the supervising staff, except associate, assistant and  
36 other superintendents appointed prior to July first, two thousand  
37 fifteen and authorized by section twenty-five hundred three of this  
38 article, shall be appointed by the board of education, upon the recom-  
39 mendation of the superintendent of schools for a probationary period of  
40 three years. The service of a person appointed to any of such positions  
41 may be discontinued at any time during the probationary period on the  
42 recommendation of the superintendent of schools, by a majority vote of  
43 the board of education.

44 ii. Notwithstanding any other provision of law or regulation to the  
45 contrary, administrators, directors, supervisors, principals and all  
46 other members of the supervising staff, except associate, assistant and  
47 other superintendents, appointed on or after July first, two thousand  
48 fifteen and authorized by section twenty-five hundred three of this  
49 article, shall be appointed by the board of education, upon the recom-  
50 mendation of the superintendent of schools for a probationary period of  
51 [~~four~~ three years. The service of a person appointed to any of such  
52 positions may be discontinued at any time during the probationary period  
53 on the recommendation of the superintendent of schools, by a majority  
54 vote of the board of education.

55 2. a. At the expiration of the probationary term of any persons  
56 appointed for such term prior to July first, two thousand fifteen, or

1 within six months prior thereto, the superintendent of schools shall  
2 make a written report to the board of education recommending for  
3 appointment on tenure those persons who have been found competent, effi-  
4 cient and satisfactory. By a majority vote the board of education may  
5 then appoint on tenure any or all of the persons recommended by the  
6 superintendent of schools. Such persons and all others employed in the  
7 teaching service of the schools of such school district who have served  
8 the full probationary period shall hold their respective positions  
9 during good behavior and efficient and competent service, and shall not  
10 be removable except for cause after a hearing as provided by section  
11 three thousand twenty-a or section three thousand twenty-b of this chap-  
12 ter. Failure to maintain certification as required by this chapter and  
13 the regulations of the commissioner shall constitute cause for removal.

14 b. For persons appointed on or after July first, two thousand fifteen,  
15 at the expiration of the probationary term of any persons appointed for  
16 such term, or within six months prior thereto, the superintendent of  
17 schools shall make a written report to the board of education recommend-  
18 ing for appointment on tenure those persons who have been found compe-  
19 tent, efficient and satisfactory and in the case of a classroom teacher  
20 or building principal, who have received annual professional performance  
21 review ratings pursuant to section [~~three thousand twelve-c or section~~  
22 ~~three thousand twelve-d~~] three thousand twelve-b of this chapter, of  
23 either effective or highly effective in at least [~~three~~] two of the  
24 [~~four~~] three preceding years, exclusive of any breaks in service;  
25 provided that, notwithstanding any other provision of this section to  
26 the contrary, when a teacher or principal receives an effective or high-  
27 ly effective rating in each year of his or her probationary service  
28 except he or she receives an ineffective rating in the final year of his  
29 or her probationary period, such teacher or principal shall not be  
30 eligible for tenure but the board of education in its discretion, may  
31 extend the teacher's probationary period for an additional year;  
32 provided, however, that if such teacher or principal successfully  
33 appealed such ineffective rating, such teacher or principal shall imme-  
34 diately be eligible for tenure if the rating resulting from the appeal  
35 established that such individual has been effective or highly effective  
36 in at least [~~three~~] two of the preceding [~~four~~] three years and was not  
37 ineffective in the final year. By a majority vote, the board of educa-  
38 tion may then appoint on tenure any or all of the persons recommended by  
39 the superintendent of schools. At the expiration of the probationary  
40 period, the classroom teacher or building principal shall remain in  
41 probationary status until the end of the school year in which such  
42 teacher or principal has received such ratings of effective or highly  
43 effective for at least [~~three~~] two of the [~~four~~] three preceding school  
44 years exclusive of any breaks in service and subject to the terms here-  
45 of, during which time a board of education shall consider whether to  
46 grant tenure for those classroom teachers or building principals who  
47 otherwise have been found competent, efficient and satisfactory.  
48 Provided, however, that the board of education may grant tenure contin-  
49 gent upon a classroom teacher's or building principal's receipt of a  
50 minimum rating in the final year of the probationary period, pursuant to  
51 the requirements of this section, and if such contingency is not met  
52 after all appeals have been exhausted, the grant of tenure shall be void  
53 and unenforceable and the teacher's or principal's probationary period  
54 may be extended in accordance with this subdivision. Such persons who  
55 have been recommended for tenure and all others employed in the teaching  
56 service of the schools of such school district who have served the full

1 probationary period as extended pursuant to this subdivision shall hold  
2 their respective positions during good behavior and efficient and compe-  
3 tent service, and shall not be removable except for cause after a hear-  
4 ing as provided by section three thousand twenty-a or section three  
5 thousand twenty-b of this chapter. Failure to maintain certification as  
6 required by this chapter and the regulations of the commissioner shall  
7 constitute cause for removal.

8 § 11. Subdivision 1, paragraph (b) of subdivision 5, and paragraph (b)  
9 of subdivision 6 of section 2573 of the education law, subdivision 1 as  
10 amended, paragraph (b) of subdivision 5 and paragraph (b) of subdivision  
11 6 as added by section 3 of subpart D of part EE of chapter 56 of the  
12 laws of 2015, are amended to read as follows:

13 1. (a) i. Teachers and all other members of the teaching staff,  
14 appointed prior to July first, two thousand fifteen and authorized by  
15 section twenty-five hundred fifty-four of this article, shall be  
16 appointed by the board of education, upon the recommendation of the  
17 superintendent of schools, for a probationary period of three years,  
18 except that in the case of a teacher who has rendered satisfactory  
19 service as a regular substitute for a period of two years or as a  
20 seasonally licensed per session teacher of swimming in day schools who  
21 has served in that capacity for a period of two years and has been  
22 appointed to teach the same subject in day schools on an annual salary,  
23 the probationary period shall be limited to one year; provided, however,  
24 that in the case of a teacher who has been appointed on tenure in anoth-  
25 er school district within the state, the school district where currently  
26 employed, or a board of cooperative educational services, and who was  
27 not dismissed from such district or board as a result of charges brought  
28 pursuant to subdivision one of section three thousand twenty-a or  
29 section three thousand twenty-b of this chapter, the probationary period  
30 shall not exceed two years; provided, however, that in cities with a  
31 population of one million or more, a teacher appointed under a newly  
32 created license, for teachers of reading and of the emotionally hand-  
33 icapped, to a position which the teacher has held for at least two years  
34 prior to such appointment while serving on tenure in another license  
35 area who was not dismissed as a result of charges brought pursuant to  
36 subdivision one of section three thousand twenty-a or section three  
37 thousand twenty-b of this chapter, the probationary period shall be one  
38 year. The service of a person appointed to any of such positions may be  
39 discontinued at any time during such probationary period, on the recom-  
40 mendation of the superintendent of schools, by a majority vote of the  
41 board of education. Each person who is not to be recommended for  
42 appointment on tenure shall be so notified by the superintendent of  
43 schools in writing not later than sixty days immediately preceding the  
44 expiration of his or her probationary period. In city school districts  
45 having a population of four hundred thousand or more, persons with  
46 licenses obtained as a result of examinations announced subsequent to  
47 the twenty-second day of May, nineteen hundred sixty-nine appointed upon  
48 conditions that all announced requirements for the position be fulfilled  
49 within a specified period of time, shall not acquire tenure unless and  
50 until such requirements have been completed within the time specified  
51 for the fulfillment of such requirements, notwithstanding the expiration  
52 of any probationary period. In all other city school districts subject  
53 to the provisions of this article, failure to maintain certification as  
54 required by this article and by the regulations of the commissioner  
55 shall be cause for removal within the meaning of subdivision five of  
56 this section.

1 ii. Teachers and all other members of the teaching staff appointed on  
2 or after July first, two thousand fifteen and authorized by section  
3 twenty-five hundred fifty-four of this article, shall be appointed by  
4 the board of education, upon the recommendation of the superintendent of  
5 schools, for a probationary period of [~~four~~ three years, except that in  
6 the case of a teacher who has rendered satisfactory service as a regular  
7 substitute for a period of two years and, if a classroom teacher, has  
8 received annual professional performance review ratings in each of those  
9 years, or has rendered satisfactory service as a seasonally licensed per  
10 session teacher of swimming in day schools who has served in that capac-  
11 ity for a period of two years and has been appointed to teach the same  
12 subject in day schools on an annual salary, the teacher shall be  
13 appointed for a probationary period of two years; provided, however,  
14 that in the case of a teacher who has been appointed on tenure in anoth-  
15 er school district within the state, the school district where currently  
16 employed, or a board of cooperative educational services, and who was  
17 not dismissed from such district or board as a result of charges brought  
18 pursuant to subdivision one of section three thousand twenty-a or  
19 section three thousand twenty-b of this chapter, the teacher shall be  
20 appointed for a probationary period of [~~three~~ two years; provided that,  
21 in the case of a classroom teacher, the teacher demonstrates that he or  
22 she received an annual professional performance review rating pursuant  
23 to section [~~three thousand twelve-c or section three thousand twelve-d~~  
24 three thousand twelve-b of this chapter in his or her final year of  
25 service in such other school district or board of cooperative educa-  
26 tional services; provided, however, that in cities with a population of  
27 one million or more, a teacher appointed under a newly created license,  
28 for teachers of reading and of the emotionally handicapped, to a posi-  
29 tion which the teacher has held for at least two years prior to such  
30 appointment while serving on tenure in another license area who was not  
31 dismissed as a result of charges brought pursuant to subdivision one of  
32 section three thousand twenty-a or section three thousand twenty-b of  
33 this chapter, the teacher shall be appointed for a probationary period  
34 of two years. The service of a person appointed to any of such positions  
35 may be discontinued at any time during such probationary period, on the  
36 recommendation of the superintendent of schools, by a majority vote of  
37 the board of education. Each person who is not to be recommended for  
38 appointment on tenure shall be so notified by the superintendent of  
39 schools in writing not later than sixty days immediately preceding the  
40 expiration of his or her probationary period. In all city school  
41 districts subject to the provisions of this article, failure to maintain  
42 certification as required by this article and by the regulations of the  
43 commissioner shall be cause for removal within the meaning of subdivi-  
44 sion five of this section.

45 (b) i. Administrators, directors, supervisors, principals and all  
46 other members of the supervising staff, except executive directors,  
47 associate, assistant, district and community superintendents and examin-  
48 ers, appointed prior to July first, two thousand fifteen and authorized  
49 by section twenty-five hundred fifty-four of this article, shall be  
50 appointed by the board of education, upon the recommendation of the  
51 superintendent or chancellor of schools, for a probationary period of  
52 three years. The service of a person appointed to any of such positions  
53 may be discontinued at any time during the probationary period on the  
54 recommendation of the superintendent of schools, by a majority vote of  
55 the board of education.

1 ii. Administrators, directors, supervisors, principals and all other  
2 members of the supervising staff, except executive directors, associate,  
3 assistant, district and community superintendents and examiners,  
4 appointed on or after July first, two thousand fifteen and authorized by  
5 section twenty-five hundred fifty-four of this article, shall be  
6 appointed by the board of education, upon the recommendation of the  
7 superintendent or chancellor of schools, for a probationary period of  
8 [~~four~~] three years provided that such probationary period may be  
9 extended in accordance with paragraph (b) of subdivision five of this  
10 section. The service of a person appointed to any of such positions may  
11 be discontinued at any time during the probationary period on the recom-  
12 mendation of the superintendent of schools, by a majority vote of the  
13 board of education.

14 (b) At the expiration of the probationary term of any persons  
15 appointed for such term on or after July first, two thousand fifteen,  
16 the superintendent of schools shall make a written report to the board  
17 of education recommending for permanent appointment those persons who  
18 have been found competent, efficient and satisfactory and, in the case  
19 of a classroom teacher or building principal, who have received compos-  
20 ite annual professional performance review ratings pursuant to section  
21 [~~three thousand twelve-c or section three thousand twelve-d~~] three thou-  
22 sand twelve-b of this chapter, of either effective or highly effective  
23 in at least [~~three~~] two of the [~~four~~] three preceding years, exclusive  
24 of any breaks in service; provided that, notwithstanding any other  
25 provision of this section to the contrary, when a teacher or principal  
26 receives an effective and/or highly effective rating in each year of his  
27 or her probationary service except he or she receives an ineffective  
28 rating in the final year of his or her probationary period, such teacher  
29 or principal shall not be eligible for tenure but the board of education  
30 in its discretion, may extend the teacher's probationary period for an  
31 additional year; provided, however, that if such teacher or principal  
32 successfully appealed such ineffective rating, such teacher or principal  
33 shall immediately be eligible for tenure if the rating resulting from  
34 the appeal established that such individual has been effective or highly  
35 effective in at least [~~three~~] two of the preceding [~~four~~] three years.  
36 At the expiration of the probationary period, the classroom teacher or  
37 building principal shall remain in probationary status until the end of  
38 the school year in which such teacher or principal has received such  
39 ratings of effective or highly effective for at least [~~three~~] two of the  
40 [~~four~~] three preceding school years, exclusive of any breaks in service  
41 and subject to the terms hereof, during which time a board of education  
42 shall consider whether to grant tenure for those classroom teachers or  
43 building principals who otherwise have been found competent, efficient  
44 and satisfactory. Provided, however, that the board of education may  
45 grant tenure contingent upon a classroom teacher's or building princi-  
46 pal's receipt of a minimum rating in the final year of the probationary  
47 period, pursuant to the requirements of this section, and if such  
48 contingency is not met after all appeals have been exhausted, the grant  
49 of tenure shall be void and unenforceable and the teacher's or princi-  
50 pal's probationary period may be extended in accordance with this subdivi-  
51 sion. Such persons who have been recommended for tenure and all others  
52 employed in the teaching service of the schools of such school district  
53 who have served the full probationary period as extended pursuant to  
54 this subdivision shall hold their respective positions during good  
55 behavior and efficient and competent service, and shall not be removable  
56 except for cause after a hearing as provided by section three thousand

1 twenty-a or section three thousand twenty-b of this chapter. Failure to  
2 maintain certification as required by this chapter and the regulations  
3 of the commissioner shall constitute cause for removal.

4 (b) At the expiration of the probationary term of any persons  
5 appointed for such term on or after July first, two thousand fifteen,  
6 the superintendent of schools shall make a written report to the board  
7 of education recommending for permanent appointment those persons who  
8 have been found competent, efficient and satisfactory and, in the case  
9 of a classroom teacher or building principal, who have received compos-  
10 ite annual professional performance review ratings pursuant to section  
11 [~~three thousand twelve-c or section three thousand twelve-d~~] three thou-  
12 sand twelve-b of this chapter, of either effective or highly effective  
13 in at least [~~three~~] two of the [~~four~~] three preceding years, exclusive  
14 of any breaks in service; provided that, notwithstanding any other  
15 provision of this section to the contrary, when a teacher receives an  
16 effective and/or highly effective rating in each year of his or her  
17 probationary service except he or she receives an ineffective rating in  
18 the final year of his or her probationary period, such teacher or prin-  
19 cipal shall not be eligible for tenure but the board of education in its  
20 discretion, may extend the teacher's probationary period for an addi-  
21 tional year; provided, however, that if such teacher or principal  
22 successfully appealed such ineffective rating, such teacher or principal  
23 shall immediately be eligible for tenure if the rating resulting from  
24 the appeal established that such individual has been effective or highly  
25 effective in at least [~~three~~] two of the preceding [~~four~~] three years  
26 and was not ineffective in the final year. At the expiration of the  
27 probationary period, the classroom teacher or building principal shall  
28 remain in probationary status until the end of the school year in which  
29 such teacher or principal has received such ratings of effective or  
30 highly effective for at least [~~three~~] two of the [~~four~~] three preceding  
31 school years, exclusive of any breaks in service and subject to the  
32 terms hereof, during which time a board of education shall consider  
33 whether to grant tenure for those classroom teachers or building princi-  
34 pals who otherwise have been found competent, efficient and satisfac-  
35 tory. Provided, however, that the board of education may grant tenure  
36 contingent upon a classroom teacher's or building principal's receipt of  
37 a minimum rating in the final year of the probationary period, pursuant  
38 to the requirements of this section, and if such contingency is not met  
39 after all appeals have been exhausted, the grant of tenure shall be void  
40 and unenforceable and the teacher's or principal's probationary period  
41 may be extended in accordance with this subdivision. Such persons who  
42 have been recommended for tenure and all others employed in the teaching  
43 service of the schools of such school district who have served the full  
44 probationary period as extended pursuant to this subdivision shall hold  
45 their respective positions during good behavior and efficient and compe-  
46 tent service, and shall not be removable except for cause after a hear-  
47 ing as provided by section three thousand twenty-a or section three  
48 thousand twenty-b of this chapter. Failure to maintain certification as  
49 required by this chapter and the regulations of the commissioner shall  
50 constitute cause for removal.

51 § 12. Subparagraph ii of paragraph (a) of subdivision 1, subparagraph  
52 ii of paragraph (b) of subdivision 1, and paragraph (b) of subdivision 2  
53 of section 3012 of the education law, as amended by section 4 of subpart  
54 D of part EE of chapter 56 of the laws of 2015, are amended to read as  
55 follows:

1 ii. Teachers and all other members of the teaching staff of school  
2 districts, including common school districts and/or school districts  
3 employing fewer than eight teachers, other than city school districts,  
4 who are appointed on or after July first, two thousand fifteen, shall be  
5 appointed by the board of education, or the trustees of common school  
6 districts, upon the recommendation of the superintendent of schools, for  
7 a probationary period of [~~four~~] three years, except that in the case of  
8 a teacher who has rendered satisfactory service as a regular substitute  
9 for a period of two years and, if a classroom teacher, has received  
10 annual professional performance review ratings in each of those years,  
11 or has rendered satisfactory service as a seasonally licensed per  
12 session teacher of swimming in day schools who has served in that capac-  
13 ity for a period of two years and has been appointed to teach the same  
14 subject in day schools, on an annual salary, the teacher shall be  
15 appointed for a probationary period of two years; provided, however,  
16 that in the case of a teacher who has been appointed on tenure in another  
17 school district within the state, the school district where currently  
18 employed, or a board of cooperative educational services, and who was  
19 not dismissed from such district or board as a result of charges brought  
20 pursuant to subdivision one of section three thousand twenty-a or  
21 section three thousand twenty-b of this article, the teacher shall be  
22 appointed for a probationary period of [~~three~~] two years; provided that,  
23 in the case of a classroom teacher, the teacher demonstrates that he or  
24 she received an annual professional performance review rating pursuant  
25 to section [~~three thousand twelve-c or section three thousand twelve-d~~]  
26 three thousand twelve-b of this [~~chapter~~] article in his or her final  
27 year of service in such other school district or board of cooperative  
28 educational services. The service of a person appointed to any of such  
29 positions may be discontinued at any time during such probationary period,  
30 on the recommendation of the superintendent of schools, by a majority  
31 vote of the board of education or the trustees of a common school  
32 district.

33 ii. Principals, administrators, supervisors and all other members of  
34 the supervising staff of school districts, including common school  
35 districts and/or school districts employing fewer than eight teachers,  
36 other than city school districts, who are appointed on or after July  
37 first, two thousand fifteen, shall be appointed by the board of educa-  
38 tion, or the trustees of a common school district, upon the recommenda-  
39 tion of the superintendent of schools for a probationary period of  
40 [~~four~~] three years. The service of a person appointed to any of such  
41 positions may be discontinued at any time during the probationary period  
42 on the recommendation of the superintendent of schools, by a majority  
43 vote of the board of education or the trustees of a common school  
44 district.

45 (b) At the expiration of the probationary term of a person appointed  
46 for such term on or after July first, two thousand fifteen, subject to  
47 the conditions of this section, the superintendent of schools shall make  
48 a written report to the board of education or the trustees of a common  
49 school district recommending for appointment on tenure those persons who  
50 have been found competent, efficient and satisfactory and, in the case  
51 of a classroom teacher or building principal, who have received compos-  
52 ite annual professional performance review ratings pursuant to section  
53 [~~three thousand twelve-c or section three thousand twelve-d~~] three thou-  
54 sand twelve-b of this article, of either effective or highly effective  
55 in at least [~~three~~] two of the [~~four~~] three preceding years, exclusive  
56 of any breaks in service; provided that, notwithstanding any other

1 provision of this section to the contrary, when a teacher or principal  
2 receives an effective or highly effective rating in each year of his or  
3 her probationary service except he or she receives an ineffective rating  
4 in the final year of his or her probationary period, such teacher shall  
5 not be eligible for tenure but the board of education, in its  
6 discretion, may extend the teacher's probationary period for an addi-  
7 tional year; provided, however, that if such teacher or principal  
8 successfully appealed such ineffective rating, such teacher or principal  
9 shall immediately be eligible for tenure if the rating resulting from  
10 the appeal established that such individual has been effective or highly  
11 effective in at least [~~three~~] two of the preceding [~~four~~] three years  
12 and was not ineffective in the final year. At the expiration of the  
13 probationary period, the classroom teacher or building principal shall  
14 remain in probationary status until the end of the school year in which  
15 such teacher or principal has received such ratings of effective or  
16 highly effective for at least [~~three~~] two of the [~~four~~] three preceding  
17 school years, exclusive of any breaks in service, and subject to the  
18 terms hereof, during which time the trustees or board of education shall  
19 consider whether to grant tenure for those classroom teachers or build-  
20 ing principals who otherwise have been found competent, efficient and  
21 satisfactory. Provided, however, that the trustees or board of education  
22 may grant tenure contingent upon a classroom teacher's or building prin-  
23 cipal's receipt of a minimum rating in the final year of the probation-  
24 ary period, pursuant to the requirements of this section, and if such  
25 contingency is not met after all appeals have been exhausted, the grant  
26 of tenure shall be void and unenforceable and the teacher's or princi-  
27 pal's probationary period may be extended in accordance with this subdi-  
28 vision. Such persons who have been recommended for tenure and all others  
29 employed in the teaching service of the schools of such school district  
30 who have served the full probationary period as extended pursuant to  
31 this subdivision shall hold their respective positions during good  
32 behavior and efficient and competent service, and shall not be removable  
33 except for cause after a hearing as provided by section three thousand  
34 twenty-a or section three thousand twenty-b of this article. Failure to  
35 maintain certification as required by this chapter and the regulations  
36 of the commissioner shall constitute cause for removal.

37 § 13. Paragraph (b) of subdivision 1 and paragraph (b) of subdivision  
38 2 of section 3014 of the education law, as added by section 5 of subpart  
39 D of part EE of chapter 56 of the laws of 2015, are amended to read as  
40 follows:

41 (b) Administrative assistants, supervisors, teachers and all other  
42 members of the teaching and supervising staff of the board of cooper-  
43 ative educational services appointed on or after July first, two thou-  
44 sand fifteen, shall be appointed by a majority vote of the board of  
45 cooperative educational services upon the recommendation of the district  
46 superintendent of schools for a probationary period of not to exceed  
47 [~~four~~] three years; provided, however, that in the case of a teacher who  
48 has been appointed on tenure in a school district within the state, the  
49 board of cooperative educational services where currently employed, or  
50 another board of cooperative educational services, and who was not  
51 dismissed from such district or board as a result of charges brought  
52 pursuant to section three thousand twenty-a or section three thousand  
53 twenty-b of this article, the teacher shall be appointed for a proba-  
54 tionary period of [~~three~~] two years; provided that, in the case of a  
55 classroom teacher, the teacher demonstrates that he or she received a  
56 composite annual professional performance review rating pursuant to

1 section [~~three thousand twelve c or three thousand twelve d~~] three thou-  
2 sand twelve-b of this [~~chapter~~] article of either effective or highly  
3 effective in his or her final year of service in such other school  
4 district or board of cooperative educational services. Services of a  
5 person so appointed to any such positions may be discontinued at any  
6 time during such probationary period, upon the recommendation of the  
7 district superintendent, by a majority vote of the board of cooperative  
8 educational services.

9 (b) On or before the expiration of the probationary term of a person  
10 appointed for such term on or after July first, two thousand fifteen,  
11 the district superintendent of schools shall make a written report to  
12 the board of cooperative educational services recommending for appoint-  
13 ment on tenure persons who have been found competent, efficient and  
14 satisfactory and, in the case of a classroom teacher or building princi-  
15 pal, who have received composite annual professional performance review  
16 ratings pursuant to section [~~three thousand twelve c or section three~~  
17 ~~thousand twelve d~~] three thousand twelve-b of this article, of either  
18 effective or highly effective in at least [~~three~~] two of the [~~four~~]  
19 three preceding years, exclusive of any breaks in service; provided  
20 that, notwithstanding any other provision of this section to the contra-  
21 ry, when a teacher or principal receives an effective or highly effec-  
22 tive rating in each year of his or her probationary service except he or  
23 she receives an ineffective rating in the final year of his or her  
24 probationary period, such teacher shall not be eligible for tenure but  
25 the board of education in its discretion, may extend the teacher's  
26 probationary period for an additional year; provided, however that if  
27 such teacher or principal successfully appealed such ineffective rating,  
28 such teacher or principal shall immediately be eligible for tenure if  
29 the rating resulting from the appeal established that such individual  
30 has been effective or highly effective in at least [~~three~~] two of the  
31 preceding [~~four~~] three years and was not ineffective in the final year.  
32 At the expiration of the probationary period, the classroom teacher or  
33 building principal shall remain in probationary status until the end of  
34 the school year in which such teacher or principal has received such  
35 ratings of effective or highly effective for at least [~~three~~] two of the  
36 [~~four~~] three preceding school years, exclusive of any breaks in service,  
37 during which time a board of cooperative educational services shall  
38 consider whether to grant tenure for those classroom teachers or build-  
39 ing principals who otherwise have been found competent, efficient and  
40 satisfactory. Provided, however, that the board of cooperative educa-  
41 tional services may grant tenure contingent upon a classroom teacher's  
42 or building principal's receipt of a minimum rating in the final year of  
43 the probationary period, pursuant to the requirements of this section,  
44 and if such contingency is not met after all appeals have been  
45 exhausted, the grant of tenure shall be void and unenforceable and the  
46 teacher's or principal's probationary period may be extended in accord-  
47 ance with this subdivision. Such persons shall hold their respective  
48 positions during good behavior and competent and efficient service and  
49 shall not be removed except for any of the following causes, after a  
50 hearing, as provided by section three thousand twenty-a or section three  
51 thousand twenty-b of this article: (i) Insubordination, immoral charac-  
52 ter or conduct unbecoming a teacher; (ii) Inefficiency, incompetency, or  
53 neglect of duty; (iii) Failure to maintain certification as required by  
54 this chapter and by the regulations of the commissioner. Each person who  
55 is not to be so recommended for appointment on tenure shall be so noti-

1 fied in writing by the district superintendent not later than sixty days  
2 immediately preceding the expiration of his or her probationary period.  
3 § 14. This act shall take effect immediately; provided, however, that:  
4 (a) the amendments to subdivisions 9 and 9-a of section 2852 of the  
5 education law made by sections five and five-a of this act shall take  
6 effect upon the state university charter school institute, in consulta-  
7 tion with the state education department, certifying that the cap of  
8 four hundred sixty charters has been reached, when upon such date the  
9 provisions of section four of this act shall be deemed repealed; and  
10 (b) the state education department shall notify the legislative bill  
11 drafting commission upon the occurrence of the enactment of the legis-  
12 lation provided for in subdivision (a) of this section in order that the  
13 commission may maintain an accurate and timely effective data base of  
14 the official text of the laws of the state of New York in furtherance of  
15 effectuating the provisions of section 44 of the legislative law and  
16 section 70-b of the public officers law.