STATE OF NEW YORK

2267

2017-2018 Regular Sessions

IN ASSEMBLY

January 17, 2017

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

AN ACT to amend the education law, in relation to retaining quality teachers

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

Section 1. Section 1604 of the education law is amended by adding a new subdivision 8-a to read as follows:

8-a. Notwithstanding any other provision of law to the contrary, whenever a board of education abolishes or reduces a position or positions under this chapter, the superintendent for the school district shall recommend which teacher or teachers should be retained. Such recommendations shall be based on an evaluation of the teacher's performance and qualifications and the educational needs of the school, including but not limited to:

(i) annual professional performance reviews conducted pursuant to section three thousand twelve-c of this chapter;

(ii) the school needs for particular license areas, office or school needs, including curriculum, specialized education, degrees, licenses or areas of expertise;

(iii) failure to obtain permanent certification within the statutorily prescribed time limits;

(iv) the length of service; provided, that the teacher's salary shall not be considered in making a layoff recommendation.

The board of education shall exercise its discretion and shall approve or reject the recommendations of the superintendent so as to minimize the adverse impact on students and the educational strength of the school district.

§ 2. Section 1709 of the education law is amended by adding a new subdivision 16-a to read as follows:

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

LBD03614-01-7

16-a. Notwithstanding any other provision of law to the contrary, whenever a board of education abolishes or reduces a position or positions under this chapter, the superintendent for the school district shall recommend which teacher or teachers should be retained. Such recommendations shall be based on an evaluation of the teacher's performance and qualifications and the educational needs of the school, including but not limited to:

(i) annual professional performance reviews conducted pursuant to section three thousand twelve-c of this chapter;

(ii) the school needs for particular license areas, office or school needs, including curriculum, specialized education, degrees, licenses or areas of expertise;

(iii) failure to obtain permanent certification within the statutorily prescribed time limits;

(iv) the length of service; provided, that the teacher's salary shall not be considered in making a lay off recommendation.

The board of education shall exercise its discretion and shall approve or reject the recommendations of the superintendent so as to minimize the adverse impact on students and the educational strength of the school district.

§ 3. Section 1804 of the education law is amended by adding a new subdivision 13 to read as follows:

13. Notwithstanding any other provision of law to the contrary, whenever a board of education abolishes or reduces a position or positions under this chapter, the superintendent for the school district shall recommend which teacher or teachers should be retained. Such recommendations shall be based on an evaluation of the teacher's performance and qualifications and the educational needs of the school, including but not limited to:

(i) annual professional performance reviews conducted pursuant to section three thousand twelve-c of this chapter;

(ii) the school needs for particular license areas, office or school needs, including curriculum, specialized education, degrees, licenses or areas of expertise;

(iii) failure to obtain permanent certification within the statutorily prescribed time limits;

(iv) the length of service; provided, that the teacher's salary shall not be considered in making a lay off recommendation.

The board of education shall exercise its discretion and shall approve or reject the recommendations of the superintendent so as to minimize the adverse impact on students and the educational strength of the school district.

§ 4. The opening paragraph of paragraph e of subdivision 4 of section 1950 of the education law, as renumbered by chapter 378 of the laws of 1972, is designated subparagraph 1 and a new subparagraph 2 is added to read as follows:

(2) Notwithstanding any other provision of law to the contrary, whenever a board of cooperative educational services abolishes or reduces a position or positions under this chapter, the district superintendent shall recommend which teacher or teachers should be retained. Such recommendations shall be based on an evaluation of the teacher's performance and qualifications and the educational needs of the board of cooperative educational services, including but not limited to:

(i) annual professional performance reviews conducted pursuant to section three thousand twelve-c of this chapter;

(ii) the board of cooperative educational services needs for particular license areas, office or school needs, including curriculum, specialized education, degrees, licenses or areas of expertise;

(iii) failure to obtain permanent certification within the statutorily prescribed time limits;

(iv) the length of service; provided, that the teacher's salary shall not be considered in making a lay off recommendation.

The board of cooperative educational services shall exercise its discretion and shall approve or reject the recommendations of the superintendent so as to minimize the adverse impact on students and the educational strength of the school district.

§ 5. Subdivision 2 of section 1505-a of the education law, as added by chapter 871 of the laws of 1982, is amended to read as follows:

2. [~~Any~~] Notwithstanding any other provision of law to the contrary, any such teacher who is unable to obtain a teaching position in any such school district to which territory is added, because the number of positions needed are less than the number of teachers eligible to be considered employees pursuant to subdivision one of this section, shall, in all such school districts to which territory is added, be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in a position similar to the one such teacher filled in such former school district. The teachers on such a preferred eligible list shall be appointed to such vacancies in such corresponding or similar positions under the jurisdiction of the school district to which territory is added [~~in the order of their length of service in such former school district~~] pursuant to subdivision eight-a of section sixteen hundred four, subdivision sixteen-a of section seventeen hundred nine and subdivision thirteen of section eighteen hundred four of this chapter, within seven years from the date of the dissolution of such former school district.

§ 6. Section 1917 of the education law, as added by chapter 732 of the laws of 1981, is amended to read as follows:

§ 1917. Employees; employment rights. [~~Teachers~~] Notwithstanding any other provision of law to the contrary, teachers and other staff members of component districts, except the superintendent of schools, whose services in the component districts are no longer needed because of creation of a central high school district, shall be granted employment rights in central high school districts in accordance with [~~length of service~~] subdivision eight-a of section sixteen hundred four, subdivision sixteen-a of section seventeen hundred nine and subdivision thirteen of section eighteen hundred four of this chapter, in each tenure area.

§ 7. Subdivisions 1 and 4 of section 1917-a of the education law, as added by section 93 of part L of chapter 405 of the laws of 1999, are amended to read as follows:

1. [~~Teachers~~] Notwithstanding any other provision of law to the contrary, teachers and other staff members of component districts, except the superintendent of schools, whose services in the component districts are no longer needed because of the creation of a central high school district or the transference of students to an existing central high school district, shall be granted employment rights in central high school districts in accordance with the provisions of this section.

4. If the number of teaching and other positions needed to provide the educational services required by such central high school district is less than the number of teachers and other employees eligible to be considered employees of such central high school district as provided by

subdivision three of this section, [~~the services of the~~] **decisions regarding retention of** teachers and other employees [~~having the least seniority~~] in the component district within the tenure area of the position shall be [~~discontinued~~] **made pursuant to subdivision eight-a of section sixteen hundred four, subdivision sixteen-a of section seventeen hundred nine and subdivision thirteen of section eighteen hundred four of this chapter**. Such teachers and other employees shall be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in an office or position under the jurisdiction of the component district, the "receiving district" as defined in section three thousand fourteen-c of this chapter, from which a component district has taken back students, and the central high school district similar to the one such teacher or other employee filled in such component district. The teachers and other employees on such preferred lists shall be reinstated or appointed to such vacancies in such corresponding or similar positions under the jurisdiction of the component district or the central high school district [~~in the order of their length of service in such component district,~~] within seven years from the date of the abolition of such office or position **pursuant to the criteria outlined in subdivision eight-a of section sixteen hundred four, subdivision sixteen-a of section seventeen hundred nine and subdivision thirteen of section eighteen hundred four of this chapter**.

§ 8. Paragraph f of subdivision 5 of section 2218 of the education law, as added by section 83 of part L of chapter 405 of the laws of 1999, is amended to read as follows:

f. [~~Members~~] **Notwithstanding any other provision of law to the contrary, members** of the teaching and supervisory staff of the pre-existing school district at the time of the reorganization shall have the right to select the school district in which he or she shall be considered an employee, with the same tenure status he or she maintained in the pre-existing school district. Such selection shall be based on each teacher's seniority in the pre-existing school district, with the right of selection passing from such teachers with the most seniority to such teachers with the least seniority. Any such teacher who is unable to obtain a teaching position in the new school district because the number of positions needed is less than the number of teachers eligible to be considered employees pursuant to this paragraph shall, in such new school district and in the remaining school district, be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in a position similar to the one such teacher filled in the pre-existing school district. Such teachers shall be appointed to vacancies in such corresponding or similar positions [~~in the order of their length of service in the pre-existing school district~~] **pursuant to subdivision eight-a of section sixteen hundred four, subdivision sixteen-a of section seventeen hundred nine and subdivision thirteen of section eighteen hundred four of this chapter**, within seven years from the date of the reorganization pursuant to this section. For such teachers, for salary, sick leave or any other purpose, the length of service credited in the pre-existing school district shall be credited as employment time with the new school district or the remaining school district, as applicable.

§ 9. Subdivision 2 and paragraph (a) of subdivision 3 of section 2510 of the education law, subdivision 2 as added by chapter 762 of the laws of 1950 and paragraph (a) of subdivision 3 as amended by chapter 236 of the laws of 1993, are amended to read as follows:

2. [~~Whenever~~] **Notwithstanding any other provision of law to the contrary, whenever** a board of education abolishes a position under this chapter, [~~the services of the teacher having the least seniority in the system within the tenure of the position abolished~~] **decisions regarding retention** shall be [~~discontinued~~] **made pursuant to criteria outlined in subdivision eight-a of section sixteen hundred four, subdivision sixteen-a of section seventeen hundred nine and subdivision thirteen of section eighteen hundred four of this chapter**.

(a) If an office or position is abolished or if it is consolidated with another position without creating a new position, the person filling such position at the time of its abolishment or consolidation shall be placed upon a preferred eligible list of candidates for appointment to a vacancy that then exists or that may thereafter occur in an office or position similar to the one which such person filled without reduction in salary or increment, provided the record of such person has been one of faithful, competent service in the office or position he has filled. The persons on such preferred list shall be reinstated or appointed to such vacancies in such corresponding or similar positions [~~in the order of their length of service in the system at any time~~] within seven years from the date of abolition or consolidation of such office or position **pursuant to the criteria outlined in subdivision eight-a of section sixteen hundred four, subdivision sixteen-a of section seventeen hundred nine and subdivision thirteen of section eighteen hundred four of this chapter**. Notwithstanding any other provision of law to the contrary, in the event that a member of the New York state teachers' retirement system, who is receiving a disability retirement allowance, shall have such disability retirement allowance rescinded, such member shall be placed upon such preferred eligible list as of the effective date of his or her disability retirement.

§ 10. Subdivisions 3 and 4 of section 2585 of the education law, subdivision 4 as renumbered by chapter 521 of the laws of 1976 and such section as renumbered by chapter 762 of the laws of 1950, are amended to read as follows:

3. [~~Whenever~~] **Notwithstanding any provision of law to the contrary, whenever** a board of education abolishes a position under this chapter, [~~the services of the teacher having the least seniority in the system~~] **decisions regarding retention** within the tenure of the position abolished shall be [~~discontinued~~] **made pursuant to criteria outlined in subdivision eight-a of section sixteen hundred four, subdivision sixteen-a of section seventeen hundred nine and subdivision thirteen of section eighteen hundred four of this chapter**.

4. If an office or position is abolished or if it is consolidated with another position without creating a new position, the person filling such position at the time of its abolishment or consolidation shall be placed upon a preferred eligible list of candidates for appointment to a vacancy that then exists or that may thereafter occur in an office or position similar to the one which such person filled without reduction in salary or increment, provided the record of such person has been one of faithful, competent service in the office or position he **or she** has filled. The persons on such preferred list shall be reinstated or appointed to such corresponding or similar positions [~~in the order of their length of service in the system~~] **pursuant to the criteria outlined in subdivision eight-a of section sixteen hundred four, subdivision sixteen-a of section seventeen hundred nine and subdivision thirteen of section eighteen hundred four of this chapter**.

§ 11. Subdivision 2 and paragraph (a) of subdivision 3 of section 3013 of the education law, as added by chapter 737 of the laws of 1992, are amended to read as follows:

2. [~~Whenever~~] Notwithstanding any other provision of law to the contrary, whenever a trustee, board of [~~trustee~~] trustees, board of education or board of cooperative educational services abolishes a position under this chapter, [~~the services of the teacher having the least seniority in the system within the tenure of the position abolished~~] decisions regarding retention of teachers shall be [~~discontinued~~] made pursuant to criteria outlined in subdivision eight-a of section sixteen hundred four, subdivision sixteen-a of section seventeen hundred nine, subdivision thirteen of section eighteen hundred four and subparagraph two of paragraph e of subdivision four of section nineteen hundred fifty of this chapter.

(a) If an office or position is abolished or if it is consolidated with another position without creating a new position, the person filling such position at the time of its abolishment or consolidation shall be placed upon a preferred eligible list of candidates for appointment to a vacancy that then exists or that may thereafter occur in an office or position similar to the one which such person filled without reduction in salary or increment, provided the record of such person has been one of faithful, competent service in the office or position he or she has filled. The persons on such preferred list shall be reinstated or appointed to such vacancies in such corresponding or similar positions [~~in the order of their length of service in the system~~] pursuant to the criteria outlined in subdivision eight-a of section sixteen hundred four, subdivision eight-a of section seventeen hundred nine and subdivision thirteen of section eighteen hundred four of this chapter, at any time within seven years from the date of abolition or consolidation of such office or position.

§ 12. Subdivision 2 of section 3014-a of the education law, as amended by chapter 511 of the laws of 1998, is amended to read as follows:

2. [~~If~~] Notwithstanding any other provision of law to the contrary, if the number of teaching positions needed to provide the services required by such program by the board or boards of cooperative educational services is less than the number of teachers, teaching assistants and teacher aides eligible to be considered employees of such board or boards of cooperative educational services as provided by subdivision one of this section, [~~the services of the teachers, teaching assistants and teacher aides having the least seniority in the school district or school districts or county vocational education and extension board whose programs are taken over by the board or boards of cooperative educational services within the tenure area or civil service title of the position~~] decisions regarding layoffs and retention of such employees shall be [~~discontinued~~] made pursuant to the criteria outlined in subdivision eight-a of section sixteen hundred four, subdivision sixteen-a of section seventeen hundred nine, subdivision thirteen of section eighteen hundred four and subparagraph two of paragraph e of subdivision four of section nineteen hundred fifty of this chapter. Such teachers, teaching assistants and teacher aides shall be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in an office or position under the jurisdiction of the board or boards of cooperative educational services similar to the one such teacher, teaching assistant and teacher aide filled in such school district or school districts or such county vocational education and extension board. The teachers, teaching assistants and teacher aides

on such preferred list shall be reinstated or appointed to such vacancies in such corresponding or similar positions under the jurisdiction of the board or boards of cooperative educational services [~~in the order of their length of service in such school district or school districts or in such county vocational education and extension board~~] pursuant to the criteria outlined in subdivision eight-a of section sixteen hundred four, subdivision sixteen-a of section seventeen hundred nine, subdivision thirteen of section eighteen hundred four and subparagraph two of paragraph e of subdivision four of section nineteen hundred fifty of this chapter, within seven years from the date of the abolition of such office or position.

§ 13. Subdivision 2 of section 3014-b of the education law, as amended by chapter 511 of the laws of 1998, is amended to read as follows:

2. [~~If~~] Notwithstanding any other provision of law to the contrary, if the number of teaching positions needed to provide the services required by such program by the school district is less than the number of teachers, teaching assistants and teacher aides eligible to be considered employees of such school district as provided by subdivision one of this section, [~~the services of the teachers, teaching assistants and teacher aides having the least seniority in the board of cooperative educational services whose programs are taken over by the school district within the tenure area or civil service title of the position~~] decisions regarding retention of such employees shall be [~~discontinued~~] made pursuant to criteria outlined in subdivision eight-a of section sixteen hundred four, subdivision sixteen-a of section seventeen hundred nine, subdivision thirteen of section eighteen hundred four and subparagraph two of paragraph e of subdivision four of section nineteen hundred fifty of this chapter. Such teachers, teaching assistants and teacher aides shall be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in an office or position under the jurisdiction of the school district similar to the one such teacher, teaching assistant and teacher aide filled in such board of cooperative educational services. The teachers, teaching assistants and teacher aides on such preferred list shall be reinstated or appointed to such vacancies in such corresponding or similar positions under the jurisdiction of the school district [~~in the order of their length of service in such board of cooperative educational services, within seven years from the date of the abolition of such office or position~~] pursuant to the criteria outlined in subdivision eight-a of section sixteen hundred four, subdivision sixteen-a of section seventeen hundred nine, subdivision thirteen of section eighteen hundred four and subparagraph two of paragraph e of subdivision four of section nineteen hundred fifty of this chapter.

§ 14. Subdivision 3 of section 3014-c of the education law, as added by chapter 706 of the laws of 1989, is amended to read as follows:

3. [~~If~~] Notwithstanding any other provision of law to the contrary, if the number of teaching positions needed to provide the educational services required by such sending district is less than the number of teachers eligible to be considered employees of such sending district as provided by subdivision two of this section, [~~the services of the teachers having the least seniority in the receiving district whose students are taken back by the sending district within the tenure area of the position~~] decisions regarding retention of teachers shall be [~~discontinued~~] made pursuant to the criteria outlined in subdivision eight-a of section sixteen hundred four, subdivision sixteen-a of section seventeen hundred nine and subdivision thirteen of section eighteen hundred four

of this chapter. Such teachers shall be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in an office or position under the jurisdiction of the sending district and the receiving district similar to the one such teacher filled in such receiving district. The teachers on such preferred list shall be reinstated or appointed to such vacancies in such corresponding or similar positions under the jurisdiction of the sending district or the receiving district [~~in the order of their length of service in such receiving district, within seven years from the date of the abolition of such office or position~~] pursuant to the criteria outlined in subdivision eight-a of section sixteen hundred four, subdivision sixteen-a of section seventeen hundred nine and subdivision thirteen of section eighteen hundred four of this chapter.

§ 15. Subdivision 3 of section 3014-d of the education law, as added by chapter 706 of the laws of 1989, is amended to read as follows:

3. [~~If~~] Notwithstanding any other provision of law to the contrary, if the number of teaching positions needed to provide the educational services required by such receiving district is less than the number of teachers eligible to be considered employees of such receiving district as provided by subdivision two of this section, [~~the services of the teachers having the least seniority in the sending district within the tenure area of the position~~] decisions regarding retention shall be [~~discontinued~~] made pursuant to the criteria outlined in subdivision eight-a of section sixteen hundred four, subdivision sixteen-a of section seventeen hundred nine and subdivision thirteen of section eighteen hundred four of this chapter. Such teachers shall be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in an office or position under the jurisdiction of the sending district and the receiving district similar to the one such teacher filled in such sending district. The teachers on such preferred list shall be reinstated or appointed to such vacancies in such corresponding or similar positions under the jurisdiction of the sending district or the receiving district [~~in the order of their length of service in such sending district~~] pursuant to the criteria outlined in subdivision eight-a of section sixteen hundred four, subdivision sixteen-a of section seventeen hundred nine and subdivision thirteen of section eighteen hundred four of this chapter, within seven years from the date of the abolition of such office or position.

§ 16. This act shall take effect July 1, 2018.