

# STATE OF NEW YORK

6486

2017-2018 Regular Sessions

## IN SENATE

May 24, 2017

Introduced by Sen. MARCELLINO -- (at request of the State Education Department) -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to the abolition of offices or positions and the seniority rights of teachers and teaching assistants within a certain tenure area

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

1 Section 1. Subdivision 2 of section 2510 of the education law, as  
2 added by chapter 762 of the laws of 1950, is amended to read as follows:

3 2. Whenever a board of education abolishes a position under this chap-  
4 ter, the services of the teacher having the least seniority in the  
5 system within the tenure of the position abolished shall be  
6 discontinued; except that where a position is abolished in the tenure  
7 area of a teacher assigned to teach English as a second language, bilin-  
8 qual education or a foreign language and the trustee or board of educa-  
9 tion determines that retention of a teacher qualified to teach in a  
10 specific language other than English is needed to provide instruction,  
11 the services of the least senior teacher in the tenure area of the posi-  
12 tion abolished who does not hold the appropriate certificate to teach in  
13 that position shall be discontinued.

14 § 2. Paragraph (a) of subdivision 3 of section 2510 of the education  
15 law, as amended by chapter 236 of the laws of 1993, is amended to read  
16 as follows:

17 (a) If an office or position is abolished or if it is consolidated  
18 with another position without creating a new position, the person fill-  
19 ing such position at the time of its abolishment or consolidation shall  
20 be placed upon a preferred eligible list of candidates for appointment  
21 to a vacancy that then exists or that may thereafter occur in an office  
22 or position similar to the one which such person filled without  
23 reduction in salary or increment, provided the record of such person has

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

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1 been one of faithful, competent service in the office or position he or  
2 she has filled. The persons on such preferred list shall be reinstated  
3 or appointed to such vacancies in such corresponding or similar posi-  
4 tions in the order of their length of service in the system at any time  
5 within seven years from the date of abolition or consolidation of such  
6 office or position; except that a new position in which certification to  
7 teach a specific language other than English, English as a second  
8 language or bilingual education is required by the school district shall  
9 not be deemed similar pursuant to this subdivision to a position that  
10 did not require such certification. Notwithstanding any other provision  
11 of law to the contrary, in the event that a member of the New York state  
12 teachers' retirement system, who is receiving a disability retirement  
13 allowance, shall have such disability retirement allowance rescinded,  
14 such member shall be placed upon such preferred eligible list as of the  
15 effective date of his or her disability retirement.

16 § 3. Subdivisions 2, 3 and 4 of section 2585 of the education law, as  
17 amended by chapter 820 of the laws of 1947, subdivisions 2 and 3 as  
18 renumbered by chapter 762 of the laws of 1950, and subdivision 4 as  
19 renumbered by chapter 521 of the laws of 1976, are amended to read as  
20 follows:

21 2. If a board of education abolishes an office or position and creates  
22 another office or position for the performance of duties similar to  
23 those performed in the office or position abolished, the person filling  
24 such office or position at the time of its abolishment shall be  
25 appointed to the office or position thus created without reduction in  
26 salary or increment, provided the record of such person has been one of  
27 faithful, competent service in the office or position he or she has  
28 filled; except that a new position in which certification to teach a  
29 specific language other than English, English as a second language or  
30 bilingual education is required by the school district shall not be  
31 deemed similar pursuant to this subdivision to a position that did not  
32 require such certification.

33 3. Whenever a board of education abolishes a position under this chap-  
34 ter, the services of the teacher having the least seniority in the  
35 system within the tenure of the position abolished shall be  
36 discontinued; except that where a position is abolished in the tenure  
37 area of a teacher assigned to teach English as a second language, bilin-  
38 gual education or a foreign language and the trustee or board of educa-  
39 tion determines that retention of a teacher qualified to teach in a  
40 specific language other than English is needed to provide instruction,  
41 the services of the least senior teacher in the tenure area of the posi-  
42 tion abolished who does not hold the appropriate certificate to teach in  
43 that position shall be discontinued.

44 4. If an office or position is abolished or if it is consolidated with  
45 another position without creating a new position, the person filling  
46 such position at the time of its abolishment or consolidation shall be  
47 placed upon a preferred eligible list of candidates for appointment to a  
48 vacancy that then exists or that may thereafter occur in an office or  
49 position similar to the one which such person filled without reduction  
50 in salary or increment, provided the record of such person has been one  
51 of faithful, competent service in the office or position he or she has  
52 filled; except that a new position in which certification to teach a  
53 specific language other than English, English as a second language or  
54 bilingual education is required by the school district shall not be  
55 deemed similar pursuant to this subdivision to a position that did not  
56 require such certification. The persons on such preferred list shall be

1 reinstated or appointed to such corresponding or similar positions in  
2 the order of their length of service in the system.

3 § 4. Subdivision 2 of section 2588 of the education law, as added by  
4 chapter 521 of the laws of 1976, is amended to read as follows:

5 2. If a position within a tenure area is abolished and another posi-  
6 tion is created in such area for the performance of duties similar to  
7 those performed in the abolished position, the person filling such  
8 office or position at the time of its abolition shall be appointed to  
9 the position thus created without reduction in salary or increment,  
10 provided the record of such person has been one of faithful, competent  
11 service in the office or position he or she has filled ; except that a  
12 new position in which certification to teach a specific language other  
13 than English, English as a second language or bilingual education is  
14 required by the school district shall not be deemed similar pursuant to  
15 this subdivision to a position that did not require such certification.

16 § 5. Paragraph (a) of subdivision 3 of section 2588 of the education  
17 law, as added by chapter 521 of the laws of 1976, is amended to read as  
18 follows:

19 (a) Whenever a teaching position is abolished under this chapter, the  
20 services of the person holding a position within the tenure area of the  
21 position which is to be abolished who has the least seniority in the  
22 city school district, including all full-time equivalent substitute  
23 service and all full-time equivalent service as a paraprofessional,  
24 shall be discontinued, provided that the services of a person who has  
25 acquired tenure within such tenure area shall not be discontinued if  
26 another person holding a position within such tenure area has not  
27 acquired tenure; except that where a position is abolished in the tenure  
28 area of a teacher assigned to teach bilingual education, English as a  
29 second language or a foreign language and the trustee or board of educa-  
30 tion determines that retention of a teacher qualified to teach in a  
31 specific language other than English is needed to provide instruction,  
32 the services of the least senior teacher in the tenure area of the posi-  
33 tion abolished who does not hold the appropriate certificate to teach in  
34 that position shall be discontinued.

35 § 6. Subdivision 7 of section 2588 of the education law, as amended by  
36 chapter 783 of the laws of 1981, is amended to read as follows:

37 7. If an office or position is abolished or if it is consolidated with  
38 another position without creating a new position, the person filling  
39 such position at the time of its abolition or consolidation, or a person  
40 displaced by a person with higher seniority as provided in this section,  
41 shall be placed upon a preferred eligible list of candidates for  
42 appointment to a vacancy that then exists or that may thereafter occur  
43 in the tenure area of such position, without reduction in salary or  
44 increment, provided the record of such person has been one of faithful,  
45 competent service in the office or position he or she has filled; except  
46 that a new position in which certification to teach a specific language  
47 other than English, English as a second language or bilingual education  
48 is required by the school district shall not be deemed similar pursuant  
49 to this subdivision to a position that did not require such certifi-  
50 ication. The persons on such preferred list shall be reinstated or  
51 appointed to such vacancies in the order of their length of service in  
52 the city school district, including all full-time equivalent substitute  
53 service and all full-time equivalent service as a paraprofessional,  
54 provided that in the case of vacancies in principalship positions under  
55 the jurisdiction of a community school board, such persons shall be  
56 reinstated or reappointed in order of their length of service in the

1 tenure area of the position in the community district and provided that  
2 intermediate supervisors properly assigned or appointed on or after the  
3 effective date of this subdivision to positions in a community district  
4 and who have been placed on a preferred eligible list shall be entitled  
5 to reinstatement or reappointment to vacancies in their tenure area  
6 within that community district in order of their length of service in  
7 the tenure area of the position in the community district.

8 § 7. Subdivisions 1 and 2 of section 3013 of the education law, as  
9 added by chapter 737 of the laws of 1992, are amended to read as  
10 follows:

11 1. If a trustee, board of trustees, board of education or board of  
12 cooperative educational services abolishes an office or position and  
13 creates another office or position for the performance of duties similar  
14 to those performed in the office or position abolished, the person fill-  
15 ing such office or position at the time of its abolishment shall be  
16 appointed to the office or position thus created without reduction in  
17 salary or increment, provided the record of such person has been one of  
18 faithful, competent service in the office or position he or she has  
19 filled; except that a new position in which certification to teach a  
20 specific language other than English, English as a second language or  
21 bilingual education is required by the school district shall not be  
22 deemed similar pursuant to this subdivision to a position that did not  
23 require such certification.

24 2. Whenever a trustee, board of [~~trustee~~] trustees, board of education  
25 or board of cooperative educational services abolishes a position under  
26 this chapter, the services of the teacher having the least seniority in  
27 the system within the tenure of the position abolished shall be discon-  
28 tinued; except that where a position is abolished in the tenure area of  
29 a teacher assigned to teach bilingual education, English as a second  
30 language or a foreign language and the trustee or board of education  
31 determines that retention of a teacher qualified to teach in a specific  
32 language other than English is needed to provide instruction, the  
33 services of the least senior teacher in the tenure area of the position  
34 abolished who does not hold the appropriate certificate to teach in that  
35 position shall be discontinued.

36 § 8. Paragraph (a) of subdivision 3 of section 3013 of the education  
37 law, as added by chapter 737 of the laws of 1992, is amended to read as  
38 follows:

39 (a) If an office or position is abolished or if it is consolidated  
40 with another position without creating a new position, the person fill-  
41 ing such position at the time of its abolishment or consolidation shall  
42 be placed upon a preferred eligible list of candidates for appointment  
43 to a vacancy that then exists or that may thereafter occur in an office  
44 or position similar to the one which such person filled without  
45 reduction in salary or increment, provided the record of such person has  
46 been one of faithful, competent service in the office or position he or  
47 she has filled. The persons on such preferred list shall be reinstated  
48 or appointed to such vacancies in such corresponding or similar posi-  
49 tions in the order of their length of service in the system at any time  
50 within seven years from the date of abolition or consolidation of such  
51 office or position; except that a new position in which certification to  
52 teach a specific language other than English, English as a second  
53 language or bilingual education is required by the school district shall  
54 not be deemed similar pursuant to this subdivision to a position that  
55 did not require such certification.

56 § 9. This act shall take effect immediately.