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:

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 Section 3012-c of the education law is REPEALED.

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 Section 3012-d of the education law is REPEALED.

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

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

2. Annual professional performance reviews shall be determined through collective bargaining, provided however that the content of such annual professional performance reviews shall comply with the provisions of subdivision forty-nine of section three hundred five of this chapter and shall not unnecessarily increase the amount of tests students are required to take in a particular school year. The department may issue 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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tional services determine the content of such annual professional performance reviews.

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

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

5. Notwithstanding any other provision of law, rule or regulation to the contrary, all collective bargaining agreements entered into after the effective date of this section shall be consistent with the requirements of this section, unless the agreement relates to the two thousand seventeen--two thousand eighteen school year only. Nothing in this section shall be construed to abrogate any conflicting provisions of any collective bargaining agreement in effect prior to the effective date of this section during the term of such agreement and until the entry into a successor collective bargaining agreement, provided that notwithstanding any other provision of law to the contrary, upon expiration of such term and the entry into a successor collective bargaining agreement the provisions of this section shall apply.

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

9. The total number of charters issued pursuant to this article statewide shall not exceed four hundred sixty. (a) All charters issued on or after July first, two thousand fifteen and counted toward the numerical limits established by this subdivision shall be issued by the board of regents upon application directly to the board of regents or on the recommendation of the board of trustees of the state university of New York pursuant to a competitive process in accordance with subdivision nine-a of this section. [~~Fifty~~] Ninety percent of such charters issued annually on or after [~~July first, two thousand fifteen,~~] the effective date of the chapter of the laws of two thousand eighteen that amended this subdivision and no more, shall be granted to a charter for a school to be located in a city having a population of one million or more. The failure of any body to issue the regulations authorized pursuant to this article shall not affect the authority of a charter entity to propose a charter to the board of regents or the board of regents' authority to grant such charter. A conversion of an existing public school to a charter school, or the renewal or extension of a charter approved by any charter entity, shall not be counted toward the numerical limits established by this subdivision.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(vi) For purposes of determining compliance with the academic requirements set forth in paragraphs (ii) and (iii) of this subdivision, the determination shall be based solely on teaching the enumerated criteria contained therein; provided, however, that nothing in this paragraph shall prohibit schools from providing instruction in areas not enumerated within paragraphs (ii) and (iii) of this subdivision.

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

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

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

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

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

35. The term "educational institution" shall mean:

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

(b) any public school, including any school district, board of cooperative education services, public college or public university.

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

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

§ 9. Section 2 of 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, as amended by section 35 of part CCC of chapter 59 of the laws of 2018, is amended to read as follows:

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

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

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

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

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

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

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

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

b. For persons appointed on or after July first, two thousand fifteen, at the expiration of the probationary term of any persons appointed for such term, or within six months prior thereto, the superintendent of schools shall make a written report to the board of education recommending for appointment on tenure those persons who have been found competent, efficient and satisfactory and in the case of a classroom teacher or building principal, who have received annual professional performance review ratings pursuant to section [~~three thousand twelve-c or section three thousand twelve-d~~] three thousand twelve-b of this chapter, of either effective or highly effective in at least [~~three~~] two of the [~~four~~] three preceding years, exclusive of any breaks in service; provided that, notwithstanding any other provision of this section to the contrary, when a teacher or principal receives an effective or highly effective rating in each year of his or her probationary service except he or she receives an ineffective rating in the final year of his or her probationary period, such teacher or principal shall not be eligible for tenure but the board of education in its discretion, may extend the teacher's probationary period for an additional year; provided, however, that if such teacher or principal successfully appealed such ineffective rating, such teacher or principal shall immediately be eligible for tenure if the rating resulting from the appeal established that such individual has been effective or highly effective in at least [~~three~~] two of the preceding [~~four~~] three years and was not ineffective in the final year. By a majority vote, the board of education may then appoint on tenure any or all of the persons recommended by the superintendent of schools. At the expiration of the probationary period, the classroom teacher or building principal shall remain in probationary status until the end of the school year in which such teacher or principal has received such ratings of effective or highly effective for at least [~~three~~] two of the [~~four~~] three preceding school years exclusive of any breaks in service and subject to the terms hereof, during which time a board of education shall consider whether to grant tenure for those classroom teachers or building principals who otherwise have been found competent, efficient and satisfactory. Provided, however, that the board of education may grant tenure contingent upon a classroom teacher's or building principal's receipt of a minimum rating in the final year of the probationary period, pursuant to the requirements of this section, and if such contingency is not met after all appeals have been exhausted, the grant of tenure shall be void and unenforceable and the teacher's or principal's probationary period may be extended in accordance with this subdivision. Such persons who have been recommended for tenure and all others employed in the teaching service of the schools of such school district who have served the full

probationary period as extended pursuant to this subdivision shall hold their respective positions during good behavior and efficient and competent service, and shall not be removable except for cause after a hearing as provided by section three thousand twenty-a or section three thousand twenty-b of this chapter. Failure to maintain certification as required by this chapter and the regulations of the commissioner shall constitute cause for removal.

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

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

ii. Teachers and all other members of the teaching staff appointed on or after July first, two thousand fifteen and authorized by section twenty-five hundred fifty-four of this article, shall be appointed by the board of education, upon the recommendation of the superintendent of schools, for a probationary period of [~~four~~] three years, except that in the case of a teacher who has rendered satisfactory service as a regular substitute for a period of two years and, if a classroom teacher, has received annual professional performance review ratings in each of those years, or has rendered satisfactory service as a seasonally licensed per session teacher of swimming in day schools who has served in that capacity for a period of two years and has been appointed to teach the same subject in day schools on an annual salary, the teacher shall be appointed for a probationary period of two years; provided, however, that in the case of a teacher who has been appointed on tenure in another school district within the state, the school district where currently employed, or a board of cooperative educational services, and who was not dismissed from such district or board as a result of charges brought pursuant to subdivision one of section three thousand twenty-a or section three thousand twenty-b of this chapter, the teacher shall be appointed for a probationary period of [~~three~~] two years; provided that, in the case of a classroom teacher, the teacher demonstrates that he or she received an annual professional performance review rating pursuant to section [~~three thousand twelve-c or section three thousand twelve-d~~] three thousand twelve-b of this chapter in his or her final year of service in such other school district or board of cooperative educational services; provided, however, that in cities with a population of one million or more, a teacher appointed under a newly created license, for teachers of reading and of the emotionally handicapped, to a position which the teacher has held for at least two years prior to such appointment while serving on tenure in another license area who was not dismissed as a result of charges brought pursuant to subdivision one of section three thousand twenty-a or section three thousand twenty-b of this chapter, the teacher shall be appointed for a probationary period of two years. The service of a person appointed to any of such positions may be discontinued at any time during such probationary period, on the recommendation of the superintendent of schools, by a majority vote of the board of education. Each person who is not to be recommended for appointment on tenure shall be so notified by the superintendent of schools in writing not later than sixty days immediately preceding the expiration of his or her probationary period. In all city school districts subject to the provisions of this article, failure to maintain certification as required by this article and by the regulations of the commissioner shall be cause for removal within the meaning of subdivision five of this section.

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

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

(b) At the expiration of the probationary term of any persons appointed for such term on or after July first, two thousand fifteen, the superintendent of schools shall make a written report to the board of education recommending for permanent appointment those persons who have been found competent, efficient and satisfactory and, in the case of a classroom teacher or building principal, who have received composite annual professional performance review ratings pursuant to section [~~three thousand twelve-c or section three thousand twelve-d~~] three thousand twelve-b of this chapter, of either effective or highly effective in at least [~~three~~] two of the [~~four~~] three preceding years, exclusive of any breaks in service; provided that, notwithstanding any other provision of this section to the contrary, when a teacher or principal receives an effective and/or highly effective rating in each year of his or her probationary service except he or she receives an ineffective rating in the final year of his or her probationary period, such teacher or principal shall not be eligible for tenure but the board of education in its discretion, may extend the teacher's probationary period for an additional year; provided, however, that if such teacher or principal successfully appealed such ineffective rating, such teacher or principal shall immediately be eligible for tenure if the rating resulting from the appeal established that such individual has been effective or highly effective in at least [~~three~~] two of the preceding [~~four~~] three years. At the expiration of the probationary period, the classroom teacher or building principal shall remain in probationary status until the end of the school year in which such teacher or principal has received such ratings of effective or highly effective for at least [~~three~~] two of the [~~four~~] three preceding school years, exclusive of any breaks in service and subject to the terms hereof, during which time a board of education shall consider whether to grant tenure for those classroom teachers or building principals who otherwise have been found competent, efficient and satisfactory. Provided, however, that the board of education may grant tenure contingent upon a classroom teacher's or building principal's receipt of a minimum rating in the final year of the probationary period, pursuant to the requirements of this section, and if such contingency is not met after all appeals have been exhausted, the grant of tenure shall be void and unenforceable and the teacher's or principal's probationary period may be extended in accordance with this subdivision. Such persons who have been recommended for tenure and all others employed in the teaching service of the schools of such school district who have served the full probationary period as extended pursuant to this subdivision shall hold their respective positions during good behavior and efficient and competent service, and shall not be removable except for cause after a hearing as provided by section three thousand

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

(b) At the expiration of the probationary term of any persons appointed for such term on or after July first, two thousand fifteen, the superintendent of schools shall make a written report to the board of education recommending for permanent appointment those persons who have been found competent, efficient and satisfactory and, in the case of a classroom teacher or building principal, who have received composite annual professional performance review ratings pursuant to section [~~three thousand twelve-c or section three thousand twelve-d~~] three thousand twelve-b of this chapter, of either effective or highly effective in at least [~~three~~] two of the [~~four~~] three preceding years, exclusive of any breaks in service; provided that, notwithstanding any other provision of this section to the contrary, when a teacher receives an effective and/or highly effective rating in each year of his or her probationary service except he or she receives an ineffective rating in the final year of his or her probationary period, such teacher or principal shall not be eligible for tenure but the board of education in its discretion, may extend the teacher's probationary period for an additional year; provided, however, that if such teacher or principal successfully appealed such ineffective rating, such teacher or principal shall immediately be eligible for tenure if the rating resulting from the appeal established that such individual has been effective or highly effective in at least [~~three~~] two of the preceding [~~four~~] three years and was not ineffective in the final year. At the expiration of the probationary period, the classroom teacher or building principal shall remain in probationary status until the end of the school year in which such teacher or principal has received such ratings of effective or highly effective for at least [~~three~~] two of the [~~four~~] three preceding school years, exclusive of any breaks in service and subject to the terms hereof, during which time a board of education shall consider whether to grant tenure for those classroom teachers or building principals who otherwise have been found competent, efficient and satisfactory. Provided, however, that the board of education may grant tenure contingent upon a classroom teacher's or building principal's receipt of a minimum rating in the final year of the probationary period, pursuant to the requirements of this section, and if such contingency is not met after all appeals have been exhausted, the grant of tenure shall be void and unenforceable and the teacher's or principal's probationary period may be extended in accordance with this subdivision. Such persons who have been recommended for tenure and all others employed in the teaching service of the schools of such school district who have served the full probationary period as extended pursuant to this subdivision shall hold their respective positions during good behavior and efficient and competent service, and shall not be removable except for cause after a hearing as provided by section three thousand twenty-a or section three thousand twenty-b of this chapter. Failure to maintain certification as required by this chapter and the regulations of the commissioner shall constitute cause for removal.

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

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

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

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

provision of this section to the contrary, when a teacher or principal receives an effective or highly effective rating in each year of his or her probationary service except he or she receives an ineffective rating in the final year of his or her probationary period, such teacher shall not be eligible for tenure but the board of education, in its discretion, may extend the teacher's probationary period for an additional year; provided, however, that if such teacher or principal successfully appealed such ineffective rating, such teacher or principal shall immediately be eligible for tenure if the rating resulting from the appeal established that such individual has been effective or highly effective in at least [~~three~~] two of the preceding [~~four~~] three years and was not ineffective in the final year. At the expiration of the probationary period, the classroom teacher or building principal shall remain in probationary status until the end of the school year in which such teacher or principal has received such ratings of effective or highly effective for at least [~~three~~] two of the [~~four~~] three preceding school years, exclusive of any breaks in service, and subject to the terms hereof, during which time the trustees or board of education shall consider whether to grant tenure for those classroom teachers or building principals who otherwise have been found competent, efficient and satisfactory. Provided, however, that the trustees or board of education may grant tenure contingent upon a classroom teacher's or building principal's receipt of a minimum rating in the final year of the probationary period, pursuant to the requirements of this section, and if such contingency is not met after all appeals have been exhausted, the grant of tenure shall be void and unenforceable and the teacher's or principal's probationary period may be extended in accordance with this subdivision. Such persons who have been recommended for tenure and all others employed in the teaching service of the schools of such school district who have served the full probationary period as extended pursuant to this subdivision shall hold their respective positions during good behavior and efficient and competent service, and shall not be removable except for cause after a hearing as provided by section three thousand twenty-a or section three thousand twenty-b of this article. Failure to maintain certification as required by this chapter and the regulations of the commissioner shall constitute cause for removal.

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

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

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

(b) On or before the expiration of the probationary term of a person appointed for such term on or after July first, two thousand fifteen, the district superintendent of schools shall make a written report to the board of cooperative educational services recommending for appointment on tenure persons who have been found competent, efficient and satisfactory and, in the case of a classroom teacher or building principal, who have received composite annual professional performance review ratings pursuant to section [~~three thousand twelve-c or section three thousand twelve-d~~] three thousand twelve-b of this article, of either effective or highly effective in at least [~~three~~] two of the [~~four~~] three preceding years, exclusive of any breaks in service; provided that, notwithstanding any other provision of this section to the contrary, when a teacher or principal receives an effective or highly effective rating in each year of his or her probationary service except he or she receives an ineffective rating in the final year of his or her probationary period, such teacher shall not be eligible for tenure but the board of education in its discretion, may extend the teacher's probationary period for an additional year; provided, however that if such teacher or principal successfully appealed such ineffective rating, such teacher or principal shall immediately be eligible for tenure if the rating resulting from the appeal established that such individual has been effective or highly effective in at least [~~three~~] two of the preceding [~~four~~] three years and was not ineffective in the final year. At the expiration of the probationary period, the classroom teacher or building principal shall remain in probationary status until the end of the school year in which such teacher or principal has received such ratings of effective or highly effective for at least [~~three~~] two of the [~~four~~] three preceding school years, exclusive of any breaks in service, during which time a board of cooperative educational services shall consider whether to grant tenure for those classroom teachers or building principals who otherwise have been found competent, efficient and satisfactory. Provided, however, that the board of cooperative educational services may grant tenure contingent upon a classroom teacher's or building principal's receipt of a minimum rating in the final year of the probationary period, pursuant to the requirements of this section, and if such contingency is not met after all appeals have been exhausted, the grant of tenure shall be void and unenforceable and the teacher's or principal's probationary period may be extended in accordance with this subdivision. Such persons shall hold their respective positions during good behavior and competent and efficient service and shall not be removed except for any of the following causes, after a hearing, as provided by section three thousand twenty-a or section three thousand twenty-b of this article: (i) Insubordination, immoral character or conduct unbecoming a teacher; (ii) Inefficiency, incompetency, or neglect of duty; (iii) Failure to maintain certification as required by this chapter and by the regulations of the commissioner. Each person who is not to be so recommended for appointment on tenure shall be so noti-

fied in writing by the district superintendent not later than sixty days immediately preceding the expiration of his or her probationary period.

§ 14. This act shall take effect immediately; provided, however, that:

(a) the amendments to subdivisions 9 and 9-a of section 2852 of the education law made by sections five and five-a of this act shall take effect upon the state university charter school institute, in consultation with the state education department, certifying that the cap of four hundred sixty charters has been reached, when upon such date the provisions of section four of this act shall be deemed repealed; and

(b) the state education department shall notify the legislative bill drafting commission upon the occurrence of the enactment of the legislation provided for in subdivision (a) of this section in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.