

# STATE OF NEW YORK

9079--A

## IN ASSEMBLY

January 16, 2020

Introduced by M. of A. DARLING -- read once and referred to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to repeal a chapter of the laws of 2019, authorizing the commissioner of education and the chancellor of the board of regents, with the approval of the board of regents, to appoint monitors to oversee the Hempstead union free school district as proposed in legislative bills numbers S.6559 and A.8403; authorizing the commissioner of education to appoint a monitor to oversee the Hempstead union free school district and establishing the powers and duties of such monitor; and providing for the repeal of certain provisions upon expiration thereof

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

1 Section 1. A chapter of the laws of 2019, authorizing the commissioner  
2 of education and the chancellor of the board of regents, with the  
3 approval of the board of regents, to appoint monitors to oversee the  
4 Hempstead union free school district as proposed in legislative bills  
5 numbers S.6559 and A.8403, is REPEALED.

6 § 2. Definitions. As used in this act:

7 (a) "Commissioner" shall mean the commissioner of education;

8 (b) "Department" shall mean the state education department;

9 (c) "Board of education" or "board" shall mean the board of education  
10 of the Hempstead union free school district;

11 (d) "School district" or "district" shall mean the Hempstead union  
12 free school district;

13 (e) "Superintendent" shall mean the superintendent of the Hempstead  
14 union free school district; and

15 (f) "Relatives" shall mean a Hempstead union free school district  
16 board member's spouse, domestic partner, child, stepchild, stepparent,  
17 or any person who is a direct descendant of the grandparents of a  
18 current board member or a board member's spouse or domestic partner.

19 § 3. Appointment of a monitor. The commissioner shall appoint one  
20 monitor to provide oversight, guidance and technical assistance related

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

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1 to the educational and fiscal policies, practices, programs and deci-  
2 sions of the school district, the board of education and the superinten-  
3 dent.

4 1. The monitor, to the extent practicable, shall have experience in  
5 school district finances and one or more of the following areas:

6 (a) elementary and secondary education;

7 (b) the operation of school districts in New York;

8 (c) educating students with disabilities; and

9 (d) educating English language learners.

10 2. The monitor shall be a non-voting ex-officio member of the board of  
11 education. The monitor shall be an individual who is not a resident,  
12 employee of the school district or relative of a board member of the  
13 school district at the time of his or her appointment.

14 3. The reasonable and necessary expenses incurred by the monitor while  
15 performing his or her official duties shall be paid by the school  
16 district. Notwithstanding any other provision of law, the monitor shall  
17 be entitled to defense and indemnification by the school district to the  
18 same extent as a school district employee.

19 § 4. Meetings. 1. The monitor shall be entitled to attend all meetings  
20 of the board, including executive sessions; provided however, such moni-  
21 tor shall not be considered for purposes of establishing a quorum of the  
22 board. The school district shall fully cooperate with the monitor  
23 including, but not limited to, providing such monitor with access to any  
24 necessary documents and records of the district including access to  
25 electronic information systems, databases and planning documents,  
26 consistent with all applicable state and federal statutes including, but  
27 not limited to, Family Education Rights and Privacy Act (FERPA) (20  
28 U.S.C. §1232g) and section 2-d of the education law.

29 2. The board, in consultation with the monitor, shall adopt a conflict  
30 of interest policy that complies with all existing applicable laws,  
31 rules and regulations that ensures its board members and administration  
32 act in the school district's best interest and comply with applicable  
33 legal requirements. The conflict of interest policy shall include, but  
34 not be limited to:

35 (a) a definition of the circumstances that constitute a conflict of  
36 interest;

37 (b) procedures for disclosing a conflict of interest to the board;

38 (c) a requirement that the person with the conflict of interest not be  
39 present at or participate in board deliberations or votes on the matter  
40 giving rise to such conflict, provided that nothing in this subdivision  
41 shall prohibit the board from requesting that the person with the  
42 conflict of interest present information as background or answer ques-  
43 tions at a board meeting prior to the commencement of deliberations or  
44 voting relating thereto;

45 (d) a prohibition against any attempt by the person with the conflict  
46 to influence improperly the deliberation or voting on the matter giving  
47 rise to such conflict; and

48 (e) a requirement that the existence and resolution of the conflict be  
49 documented in the board's records, including in the minutes of any meet-  
50 ing at which the conflict was discussed or voted upon.

51 § 5. Public hearings. 1. The monitor shall schedule three public hear-  
52 ings to be held within sixty days of his or her appointment, which shall  
53 allow public comment from the district's residents, students, parents,  
54 employees, board members and administration.

55 (a) The first hearing shall take public comment on existing statutory  
56 and regulatory authority of the commissioner, the department and the

1 board of regents regarding school district governance and intervention  
2 under applicable state law and regulations, including but not limited  
3 to, sections 306, 211-c, and 211-f of the education law.

4 (b) The second hearing shall take public comment on the academic  
5 performance of the district.

6 (c) The third hearing shall take public comment on the fiscal perform-  
7 ance of the district.

8 2. The board of education and the monitor shall consider these public  
9 comments when developing the financial plan and academic improvement  
10 plan under this act.

11 § 6. Financial plan. 1. No later than November first, two thousand  
12 twenty, the board of education and the monitor shall develop a proposed  
13 financial plan for the two thousand twenty--two thousand twenty-one  
14 school year and the four subsequent school years. The financial plan  
15 shall ensure that annual aggregate operating expenses shall not exceed  
16 annual aggregate operating revenues for such school year and that the  
17 major operating funds of the district be balanced in accordance with  
18 generally accepted accounting principles. The financial plan shall  
19 include statements of all estimated revenues, expenditures, and cash  
20 flow projections of the district.

21 2. If the board of education and the monitor agree on all the elements  
22 of the proposed financial plan, the board of education shall conduct a  
23 public hearing on the plan and consider the input of the community. The  
24 proposed financial plan shall be made public on the district's website  
25 at least three business days before such public hearing. Once the  
26 proposed financial plan has been approved by the board of education,  
27 such plan shall be submitted by the monitor to the commissioner for  
28 approval and shall be deemed approved for the purposes of this act.

29 3. If the board of education and the monitor do not agree on all the  
30 elements of the proposed financial plan, the board of education shall  
31 conduct a public hearing on the proposed plan that details the elements  
32 of disagreement between the monitor and the board, including documented  
33 justification for such disagreements and any requested amendments from  
34 the monitor. The proposed financial plan, elements of disagreement, and  
35 requested amendments shall be made public on the district's website at  
36 least three business days before such public hearing. After considering  
37 the input of the community, the board may alter the proposed financial  
38 plan and the monitor may alter his or her requested amendments, and the  
39 monitor shall submit the proposed financial plan, his or her amendments  
40 to the plan, and documentation providing justification for such disa-  
41 greements and amendments to the commissioner no later than December  
42 first, two thousand twenty. By January fifteenth, two thousand twenty-  
43 one, the commissioner shall approve the proposed plan with any of the  
44 monitor's proposed amendments, or make other modifications, he or she  
45 deems appropriate. The board of education shall provide the commis-  
46 sioner with any information he or she requests to approve such plan within  
47 three business days of such request. Upon the approval of the commis-  
48 sioner, the financial plan shall be deemed approved for purposes of this  
49 act.

50 § 7. Academic improvement plan. 1. No later than November first, two  
51 thousand twenty, the board of education and the monitor shall develop an  
52 academic improvement plan for the district's two thousand twenty--two  
53 thousand twenty-one school year and the four subsequent school years.  
54 The academic improvement plan shall contain a series of programmatic  
55 recommendations designed to improve academic performance over the period  
56 of the plan in those academic areas that the commissioner deems to be in

1 need of improvement which shall include addressing the provisions  
2 contained in any action plan set forth by the department.

3 2. If the board of education and the monitor agree on all the elements  
4 of the proposed academic improvement plan, the board of education shall  
5 conduct a public hearing on the plan and consider the input of the  
6 community. The proposed academic improvement plan shall be made public  
7 on the district's website at least three business days before such  
8 public hearing. Once the proposed academic improvement plan has been  
9 approved by the board of education, such plan shall be submitted by the  
10 monitor to the commissioner for approval and shall be deemed approved  
11 for the purposes of this act.

12 3. If the board of education and the monitor do not agree on all the  
13 elements of the proposed academic improvement plan, the board of educa-  
14 tion shall conduct a public hearing on the proposed plan that details  
15 the elements of disagreement between the monitor and the board, includ-  
16 ing documented justification for such disagreements and any requested  
17 amendments from the monitor. The proposed academic improvement plan,  
18 elements of disagreement, and requested amendments shall be made public  
19 on the district's website at least three business days before such  
20 public hearing. After considering the input of the community, the board  
21 may alter the proposed academic improvement plan and the monitor may  
22 alter his or her requested amendments, and the monitor shall submit the  
23 proposed academic improvement plan, his or her amendments to the plan,  
24 and documentation providing justification for such disagreements and  
25 amendments to the commissioner no later than December first, two thou-  
26 sand twenty. By January fifteenth, two thousand twenty-one, the commis-  
27 sioner shall approve the proposed plan with any of the monitor's  
28 proposed amendments, or make other modifications, he or she deems appro-  
29 priate. The board of education shall provide the commissioner with any  
30 information he or she requests to approve such plan within three busi-  
31 ness days of such request. Upon the approval of the commissioner, the  
32 academic improvement plan shall be deemed approved for purposes of this  
33 act.

34 § 8. Fiscal and operational oversight. 1. The board of education shall  
35 annually submit the school district's proposed budget for the next  
36 succeeding school year to the monitor no later than March first prior to  
37 the school district's annual budget vote. The monitor shall review the  
38 proposed budget to ensure that it is balanced within the context of  
39 revenue and expenditure estimates and mandated programs. The monitor  
40 shall also review the proposed budget to ensure that it, to the greatest  
41 extent possible, is consistent with the district academic improvement  
42 plan and financial plan developed and approved pursuant to this act. The  
43 monitor shall present his or her findings to the board of education and  
44 the commissioner no later than forty-five days prior to the date sched-  
45 uled for the school district's annual budget vote. The commissioner  
46 shall require the board of education to make amendments to the proposed  
47 budget consistent with any recommendations made by the monitor if the  
48 commissioner determines such amendments are necessary to comply with the  
49 financial plan and academic improvement plan under this act. The school  
50 district shall make available on the district's website: the initial  
51 proposed budget, the monitor's findings, and the final proposed budget  
52 at least seven days prior to the date of the school district's budget  
53 hearing. In the event of a revote, the board of education, in conjunc-  
54 tion with the monitor, shall develop and submit the school district's  
55 proposed budget for the next succeeding school year to the commissioner  
56 no later than seven days prior to the budget hearing. The board of

1 education shall provide the commissioner with any information he or she  
2 requests in order to make a determination pursuant to this subdivision  
3 within three business days of such request.

4 2. The district shall provide quarterly reports to the monitor and  
5 annual reports to the commissioner and board of regents on the academic,  
6 fiscal, and operational status of the school district. In addition, the  
7 monitor shall provide semi-annual reports to the commissioner, board of  
8 regents, the governor, the temporary president of the senate, and the  
9 speaker of the assembly on the academic, fiscal, and operational status  
10 of the school district. Such semi-annual report shall include all the  
11 contracts that the district entered into throughout the year.

12 3. The monitor shall have the authority to disapprove travel outside  
13 the state paid for by the district.

14 4. The monitor shall work with the district's shared decision-making  
15 committee as defined in 8 NYCRR 100.11 in developing the academic  
16 improvement plan, financial plan, district goals, implementation of  
17 district priorities and budgetary recommendations.

18 5. The monitor shall assist in resolving any disputes and conflicts,  
19 including but not limited to, those between the superintendent and the  
20 board of education and among the members of the board of education.

21 6. The monitor may recommend, and the board shall consider by vote of  
22 a resolution at the next scheduled meeting of the board, cost saving  
23 measures including, but not limited to, shared service agreements.

24 § 9. The commissioner may overrule any decision of the monitor, except  
25 for collective bargaining agreements negotiated in accordance with arti-  
26 cle 14 of the civil service law, if he or she deems that such decision  
27 is not aligned with the financial plan, academic improvement plan, or  
28 the school district's budget.

29 § 10. The monitor may notify the commissioner and the board in writing  
30 when he or she deems the district is violating an element of the finan-  
31 cial plan or academic improvement plan in this act. Within twenty days,  
32 the commissioner shall determine whether the district is in violation of  
33 any of the elements of the plans highlighted by the monitor and shall  
34 order the district to comply immediately with the plans and remedy any  
35 such violation. The school district shall suspend all actions related to  
36 the potential violation of the financial plan or academic improvement  
37 plan until the commissioner issues a determination.

38 § 11. Nothing in this act shall be construed to abrogate the duties  
39 and responsibilities of the school district consistent with applicable  
40 state law and regulations.

41 § 12. This act shall take effect immediately; provided, however,  
42 section one of this act shall take effect on the same date as a chapter  
43 of the laws of 2019, authorizing the commissioner of education and the  
44 chancellor of the board of regents, with the approval of the board of  
45 regents, to appoint monitors to oversee the Hempstead union free school  
46 district, as proposed in legislative bills numbers S.6559 and A.8403,  
47 takes effect; and provided further, however sections two, three, four,  
48 five, six, seven, eight, nine, ten and eleven of this act shall expire  
49 and be deemed repealed June 30, 2025.