

# STATE OF NEW YORK

S. 6559

A. 8403

2019-2020 Regular Sessions

## SENATE - ASSEMBLY

June 16, 2019

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

IN ASSEMBLY -- Introduced by M. of A. RAYNOR -- read once and referred to the Committee on Education

AN ACT 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; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. Definitions. As used in this act:  
2 (a) "commissioner" shall mean the commissioner of education;  
3 (b) "department" shall mean the state education department;  
4 (c) "board of education" or "board" shall mean the board of education  
5 of the Hempstead union free school district;  
6 (d) "school district" or "district" shall mean the Hempstead union  
7 free school district;  
8 (e) "superintendent" shall mean the superintendent of the Hempstead  
9 union free school district;  
10 (f) "comptroller" shall mean the state comptroller; and  
11 (g) "relatives" shall mean a Hempstead union free school district  
12 board member's spouse, domestic partner, child, stepchild, stepparent,  
13 or any person who is a direct descendant of the grandparents of the  
14 current board member or of the board member's spouse or domestic part-  
15 ner.  
16 § 2. Appointment of a panel of monitors. (a) A panel of three monitors  
17 shall be appointed pursuant to this section for the purpose of providing  
18 oversight of the school district. The commissioner, with the approval of  
19 the board of regents, shall appoint two monitors to provide oversight,

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

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1 guidance and technical assistance related to the educational policies,  
2 practices, programs and decisions of the school district, the board of  
3 education and the superintendent. The comptroller shall appoint one  
4 monitor to provide oversight, guidance and technical assistance on  
5 fiscal policies, practices, programs and decisions of the school  
6 district, the board of education and the superintendent.

7 (b) The monitors shall be non-voting ex-officio members of the school  
8 board. The monitors shall be individuals who are not residents, employ-  
9 ees of the school district or relatives of board members of the school  
10 district at the time of their appointment. The monitor appointed by the  
11 comptroller shall have experience in the school district finances. The  
12 monitors appointed by the commissioner, to the extent practicable, shall  
13 have experience in more than one of the following areas:

- 14 (i) elementary and secondary education;
- 15 (ii) the operation of school districts in New York;
- 16 (iii) educating students with disabilities; and
- 17 (iv) educating English language learners.

18 (c) The cost of the monitors shall be borne by the state and not be a  
19 charge against the school district. Monitors shall be paid a salary as  
20 well as actual and necessary expenses and travel related to their  
21 duties.

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

32 (b) The board, in consultation with the monitors, shall adopt a  
33 conflict of interest policy that complies with all existing applicable  
34 laws and regulations that ensures its board members and administration  
35 act in the school district's best interest and comply with applicable  
36 legal requirements. The conflict of interest policy shall include but  
37 not be limited to:

- 38 (i) a definition of the circumstances that constitute a conflict of  
39 interest;
- 40 (ii) procedures for disclosing a conflict of interest to the board;
- 41 (iii) a requirement that the person with the conflict of interest not  
42 be present at or participate in board deliberations or votes on the  
43 matter giving rise to such conflict, provided that nothing in this  
44 subdivision shall prohibit the board from requesting that the person  
45 with the conflict of interest present information as background or  
46 answer questions at a board meeting prior to the commencement of delib-  
47 erations or voting relating thereto;
- 48 (iv) a prohibition against any attempt by the person with the conflict  
49 to influence improperly the deliberation or voting on the matter giving  
50 rise to such conflict; and

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

54 § 4. Academic improvement and financial plans. (a) The academic  
55 improvement plan and the financial plan shall be developed by the  
56 district in accordance with the shared decision making committee as

1 defined in Part 100.11 of the commissioner's regulations and approved by  
2 the monitors. The academic improvement plan shall contain a series of  
3 programmatic recommendations designed to improve academic performance  
4 over the period of the plan in those academic areas that the commission-  
5 er and board of regents deem to be in need of improvement. Such plan may  
6 include potential expenditure initiatives but all such expenditures  
7 shall be incorporated within the financial plan as specified by this  
8 act.

9 (b) The financial plan shall ensure with respect to the major operat-  
10 ing funds for each school year that annual aggregate operating expenses  
11 shall not exceed annual aggregate operating revenues. The financial plan  
12 and each financial plan modification shall provide that the major oper-  
13 ating funds of the district be balanced in accordance with generally  
14 accepted accounting principles. The financial plan shall include state-  
15 ments of all estimated revenues, expenditures, and cash flow projections  
16 of the district.

17 (c) No later than November first, two thousand nineteen, the district  
18 shall submit to the monitors both the academic improvement plan and  
19 financial plan for their review and approval. Such plans shall cover the  
20 district's two thousand nineteen--two thousand twenty school year and  
21 the four subsequent school years. Prior to adopting the plans and  
22 submitting the plans to the monitors for review and approval, the board  
23 of education shall conduct a public hearing on the plans and consider  
24 the input of the community. The proposed plans shall be made public on  
25 the district's website at least three business days before such public  
26 hearing. No later than fifteen days after submission, the monitors  
27 shall approve or veto the plans. In the event the monitors disapprove  
28 either plan, the monitors shall provide the board of education written  
29 notice of its reasons for disapproval. Within fifteen days from the  
30 receipt of such notice, the board of education shall amend the proposed  
31 plans consistent with the monitors' recommendations and resubmit it to  
32 the monitors. If the monitors do not approve of such amended plan, the  
33 monitors shall impose a plan of their own formulation.

34 § 5. Fiscal and operational oversight. (a) The board of education  
35 shall annually submit the school district's proposed budget for the next  
36 succeeding school year to the monitors no later than 45 days before the  
37 date scheduled for the school district's budget vote. The monitors  
38 shall review the proposed budget to ensure that it is balanced within  
39 the context of revenue and expenditure estimates and mandated programs.  
40 The monitors shall also review the proposed budget to ensure that it, to  
41 the greatest extent possible, is consistent with the district academic  
42 improvement plan and financial plan developed and adopted pursuant to  
43 this act. The monitors shall present their findings to the board of  
44 education no later than 30 days prior to the date scheduled for the  
45 school district's budget vote. The board of education, with the  
46 approval of the monitors, shall make amendments to the proposed budget  
47 consistent with any recommendations made by the monitors. The school  
48 district shall make available on the district's website: the initial  
49 proposed budget, the monitors' findings, and the final proposed budget  
50 prior to the date of the school district's budget vote. Nothing herein  
51 shall be construed to abrogate the duties and responsibilities of the  
52 school district consistent with applicable state law and regulations.

53 (b) The district shall provide quarterly reports to the panel of moni-  
54 tors, and annual reports to the commissioner, board of regents and comp-  
55 troller on the fiscal and operational status of the school district. In  
56 addition, the monitors shall provide an annual report to the commission-

1 er, board of regents, and comptroller on all contracts that the district  
2 entered into throughout the year.

3 (c) The comptroller shall annually conduct a general fiscal audit of  
4 the school district, and the school district shall post the comp-  
5 troller's audit and the board's response on the district's website.

6 (d) The monitors shall have the authority to approve or disapprove the  
7 appointment of a current or future superintendent by the board of educa-  
8 tion.

9 (e) The monitors shall have the authority to approve or deny all trav-  
10 el outside the district paid for by the district.

11 (f) The monitors shall have authority to approve or deny all contracts  
12 and expenditures of the district, except for collective bargaining  
13 agreements negotiated in accordance with article 14 of the civil service  
14 law.

15 (g) The monitors shall arbitrate any conflicts between the superinten-  
16 dent and the board of education and among the members of the board of  
17 education.

18 § 6. This act shall take effect immediately and shall expire and be  
19 deemed repealed on and after June 30, 2024.