STATE OF NEW YORK

8369

2019-2020 Regular Sessions

IN ASSEMBLY

June 15, 2019

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

AN ACT to amend the education law, in relation to the appointment of teachers

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

Section 1. Section 2509 of the education law, as added by chapter 762 of the laws of 1950, 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, subdivision 3 as amended by chapter 680 of the laws of 1983, subdivision 4 as amended by chapter 263 of the laws of 2005, subdivisions 5, 6 and 7 as renumbered by chapter 717 of the laws of 1970, and subdivision 7 as added by chapter 859 of the laws of 1955, is amended to read as follows:

§ 2509. Appointment of assistant and other superintendents, teachers and other employees. 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 **up to** 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 **up to** 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~~] **reduced proportionately based upon the length of the satisfactory service**; 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

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

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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~~] **the** 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 years, except that in the case of a teacher who has rendered satisfactory service as a regular substitute for a period of **up to** two years and, if a classroom teacher, has received [~~composite~~] **satisfactory** annual [~~professional performance review ratings~~] **reviews** 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 **up to** two years and has been appointed to teach the same subject in day schools on an annual salary, the teacher shall be appointed [~~for~~] **to** a probationary period [~~of two years~~] **that is reduced proportionately based upon the length of the satisfactory service**; 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 years; provided that the teacher demonstrates that [~~he or she~~] **they** received [~~an~~] **a satisfactory** annual [~~professional performance review rating pursuant to section three thousand twelve-c or section three thousand twelve-d of this chapter~~] **review** in [~~his or her~~] **their** 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~~] **their** 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 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.~~]**(a) 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 nineteen 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 up to two years and, if a classroom teacher, has received satisfactory annual reviews 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 up to two years and has been appointed to teach the same subject in day schools on an annual salary, such teacher shall be appointed for a probationary period that is reduced proportionately based upon the length of the satisfactory service; 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, such teacher shall be appointed for a probationary period of two years; provided that the teacher demonstrates that they received a satisfactory annual review in their final year of service in such other school district or board of cooperative educational services. The service of a person appointed to any 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 the probationary period.**

(b) 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 nineteen 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 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.

3. (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.~~] **(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 **satisfactory** annual [~~professional performance review ratings pursuant to section three thousand twelve-c or section three thousand twelve-d of this chapter, of either effective or highly effective~~] **reviews** in at least three of the four 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 of the preceding four 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 of the four 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.

[~~3.~~] **4.** Associate superintendents and all other employees authorized by section twenty-five hundred three of this article, except as otherwise provided in subdivision one of this section, shall be appointed by the board of education, provided, however, that the board of education may enter into an employment contract with an associate, assistant, or other superintendent of schools for a period of from one to five years.

[~~4.~~] **5.** Clerks, draftsmen, inspectors, chemists, tabulating machine operators, secretaries, stenographers, copyists, statisticians, janitors, custodians, custodian-engineers, and all other administrative employees of a board of education, unless otherwise provided in this chapter, shall be appointed for a probationary period provided in the civil service law and regulations based thereon. The service of a person appointed to any of such positions may be discontinued by the board of education at any time during such probationary period. Such persons and all others employed in the administrative service of the board of education who have served the full probationary period shall hold their respective positions during good behavior and efficient and competent service, and shall not be removed except for cause after a hearing by the affirmative vote of a majority of the board.

[~~5.~~] **6.** No principal, supervisor, director, or teacher shall be appointed to the teaching force of such city school district who does not possess qualifications required under this chapter and under the regulations prescribed by the commissioner of education for the persons employed in such positions in the schools of the city school districts of the state, but a board of education may prescribe additional or higher qualifications for the persons employed in any of such positions.

[~~6.~~] **7.** Rules and regulations shall be adopted governing excusing of absences and for the granting of leaves of absence either with or without pay for all members of the teaching and supervising staff and other employees.

[~~7.~~] **8.** Notwithstanding any other provision of this section no period in any school year for which there is no required service and/or for which no compensation is provided shall in any event constitute a break or suspension of probationary period or continuity of tenure rights of any of the persons hereinabove described.

§ 2. Paragraph (a) of subdivision 1, and subdivisions 3, 5, 6, paragraph (a) of subdivision 10, 11, 16 and 17 of section 2573 of the education law, paragraph (a) of subdivision 1, and subdivisions 5 and 6 as amended by section 3 of subpart D of part EE of chapter 56 of the laws of 2015, subdivision 3 as amended by chapter 27 of the laws of 2012, paragraph (a) of subdivision 10 and subdivision 11 as amended by chapter 650 of the laws of 1990, subdivision 16 as added by chapter 898 of the laws of 1960, and subdivision 17 as amended by chapter 210 of the laws of 2001, are amended to read as follows:

(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 **up to** 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 **up to** 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**~~] **reduced proportionately based upon the length of the satisfactory service** 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**~~] **their** 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 years, except that in the case of a teacher who has rendered satisfactory service as a regular substitute for a period of **up to** two years and, if a classroom teacher, has received **satisfactory** annual [~~**professional performance review ratings**~~] **reviews** 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 **up to** two years and has been appointed to teach the same subject in day schools on an annual salary, the teacher shall be appointed [~~**for**~~] **to** a probationary period [~~**of two years**~~] **that is reduced proportionately based upon the length of the satisfactory service**; 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 years; provided that, in the case of a classroom teacher, the teacher demonstrates that [~~he or she~~] **they** received [~~an annual professional performance~~] **a satisfactory annual** review [~~rating pursuant to section three thousand twelve-c or section three thousand twelve-d of this chapter~~] in [~~his or her~~] **their** 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~~] **their** 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.

3. Associate superintendents, examiners and all other employees authorized by section twenty-five hundred fifty-four of this article, except as otherwise provided in subdivision one of this section, shall be appointed by the board of education except that in the city school districts of the cities of Buffalo, Rochester, and Syracuse, the associate, assistant and district superintendents and all other supervising staff who are excluded from the right to bargain collectively pursuant to article fourteen of the civil service law shall be appointed, within amounts budgeted therefor, by the superintendent of such city school district. In a city having a population of one million or more, such appointments shall be made on nomination of the superintendent of schools. Notwithstanding any other provision in this chapter to the contrary, whenever an associate superintendent of schools in the employ of the board of education in a city having a population of one million or more fails of reappointment, said person shall be immediately appointed an assistant superintendent of schools with permanent appointment as said term permanent appointment is defined in subdivisions four, five and six of this section. The salary of such assistant superintendent shall be less than the salary of an associate superintendent, but said differential in salary shall not exceed ten per centum of the annual salary of an associate superintendent of schools. When, however, an associate superintendent of schools who fails of reappointment has to [~~his~~] **their** credit thirty or more years of city service including ten or more years of service as such associate superintendent of schools, he shall suffer no reduction of salary or of pension prospects while serving as such assistant superintendent of schools.

5. (a) At the expiration of the probationary [~~term~~] **period** of any persons appointed for such [~~term~~] **period** prior to 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. Such persons and all others employed in the teaching, service of the schools of a city, 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.

(b) At the expiration of the probationary [~~term~~] **period** of any persons appointed for such [~~term~~] **period** 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 of this chapter, of either effective or highly effective~~] **satisfactory annual reviews** in at least three of the four 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 of the preceding four 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 of the four 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.

6. (a) In a city having a population of four hundred thousand or more, at the expiration of the probationary term of any persons appointed for

such term prior to 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 satisfactory, and such board of education shall immediately thereafter issue to such persons permanent certificates of appointment. Such persons and all others employed in the teaching service of the schools of such city, who have served the full probationary period shall receive permanent certificates to teach issued to them by the certificating authority, except as otherwise provided in subdivision ten-a of this section, and shall hold their respective positions during good behavior and satisfactory teaching 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.

(b) At the expiration of the probationary [~~term~~] **period** of any persons appointed for such [~~term~~] **period** 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 of this chapter, of either effective or highly effective~~] **satisfactory annual reviews** in at least three of the four 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 of the preceding four 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 of the four 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.

(a) In a city having a population of one million or more, recommendations for appointment to the teaching service shall be from the first three persons chosen by random selection from the qualifying eligible lists prepared by the chancellor. Competitive eligible lists in existence at the time of enactment of this subdivision shall not be merged and any such lists shall be exhausted or have expired before nominations are made from a qualifying list of a subsequent date promulgated hereunder. Qualifying eligible lists for supervisory positions shall be merged with any subsequently promulgated lists in the same license area so that there shall be one continuing non-expiring eligible list for each license area. No competitive eligible list shall remain in force for a longer period than four years, nor have a life of less than three years. No competitive eligible list now in force shall terminate any sooner than four years from the date on which it was promulgated. The board of education, on the recommendation of the chancellor shall designate, subject to the other provisions of this chapter, the kind and grades of licenses which shall be required for service as principal, branch principal, director, supervisor or teacher of a special branch, head of department, assistant, school psychiatrist, school psychologist, school medical inspector, school social worker, school social caseworker, school secretary, industrial or trade helper in vocational schools, school librarian, laboratory assistant, or any other position of the teaching staff together with the academic and professional qualifications required for each kind or grade of license. No person required to have a license under the provisions of this chapter in order to be employed in a position who does not have such license shall have any claim for salary, except that a person who has been assigned to teach in a subject or field not specifically covered in [~~his~~] **their** license but on the same rank or level of service shall be entitled to [~~his~~] **their** salary.

11. In a city [~~have~~] **having** a population of one million or more, the board of education, subject to the approval of the commissioner of education, shall have power to authorize the superintendent of schools to assign any teacher employed to teach any subject or subjects other than any specific subject for which such teacher is licensed. No such assignment shall be made unless the superintendent of schools shall have certified that such teacher is competent to teach the assigned subject or subjects. The superintendent of schools with the approval of the board of education, shall have power to make rules and regulations in relation to ascertainment of competency of teachers to teach such assigned subject or subjects. The assignment of a teacher to teach any such assigned subject shall not operate to change the rank or level of such teacher from that which [~~he or she~~] **they** occupied prior to such assignment.

16. In the city school district of the city of New York, the board of education shall ascertain prior to August first, nineteen hundred sixty, and annually thereafter the number of appointments which will be required for the duration of not less than a term of the ensuing school year by reason of leaves of absence granted to members of the teaching staff serving on tenure. The board shall thereupon establish and make appointments to positions of replacement teachers in a number which, including any such teachers already serving as a result of earlier

appointment, shall be at least equal, if possible, and, if not, as nearly as possible, to two-thirds of the minimum number of such teachers expected to be absent on leave at any one time. Such positions shall constitute a pool from which the board shall assign teachers to replace the teachers who are absent on leave. Appointments to such positions of replacement teachers shall be made from the appropriate eligible lists for the positions for which such replacement teachers will be required as determined by the board. Such positions of replacement teachers shall be in all respects permanent positions in the school system and persons duly appointed by the board to such positions shall be entitled to the rights of tenure and retirement accruing to persons serving in other permanent teaching positions, except that no replacement teacher shall be entitled to the special limitation of the probationary period to one year provided for certain teachers by subdivision one of this section. Upon acceptance of appointment as replacement teacher, the name of each such appointee shall be placed on a preferred eligible list as a candidate for appointment to any permanent teaching position for which he holds a valid license and such candidates shall be entitled to appointment from such preferred eligible list in order of their placement on such list. At any time when the total number of positions of replacement teacher in such pool exceeds the total number of teachers who will be absent on leave for the ensuing term of school, the board may abolish positions in such pool which are in excess of the number of teachers to be absent on leave as aforesaid, or may use replacement teachers in such pool instead of substitute teachers to replace teachers who are absent for shorter periods than one term. Whenever a particular replacement teacher cannot be used to replace any teacher who is absent on leave for a full term, [~~he~~] **they** may similarly be used to replace teachers who are absent for shorter periods. Nothing herein contained shall be construed as preventing the appointment of regular substitute teachers to replace teachers absent on leave when no persons holding positions created pursuant to this subdivision are available for such replacement.

17. In the city school district of the city of Buffalo, the board of education shall, within sixty days of the effective date of this subdivision and annually prior to August first of each year thereafter, ascertain the number of appointments which will be required for the duration of not less than a term of the ensuing school year by reason of leaves of absence granted to members of the teaching staff serving on tenure. The board shall thereupon establish and make appointments to positions of replacement teachers in a number which, including any such teachers already serving as a result of earlier appointment, shall be equal, if possible, or as nearly as possible, to two-thirds of the minimum number of such teachers expected to be absent on leave at any one time. Such positions shall constitute a pool from which the board shall assign teachers to replace the teachers who are absent on leave. Such positions of replacement teachers shall be in all respects permanent positions in the school system and persons duly appointed by the board to such positions shall be entitled to the rights of tenure and retirement accruing to persons serving in other permanent teaching positions, except that no replacement teacher shall be entitled to the special limitation of the probationary period to one year provided for certain teachers by subdivision one of this section. Upon acceptance of appointment as replacement teacher, the name of each such appointee shall be placed on a preferred eligible list as a candidate for appointment to any permanent teaching position for which [~~he or she holds~~] **they hold** a valid license and such candidates shall be entitled to appointment from

such preferred eligible list in order of their placement on such list. At any time when the total number of positions of replacement teacher in such pool exceeds the total number of teachers who will be absent on leave for the ensuing term of school, the board may abolish positions in such pool which are in excess of the number of teachers to be absent on leave as aforesaid, or may use replacement teachers in such pool instead of substitute teachers to replace teachers who are absent for shorter periods than one term. Whenever a particular replacement teacher cannot be used to replace any teacher who is absent on leave for a full term, [~~he or she~~] **they** may similarly be used to replace teachers who are absent for shorter periods. Nothing herein contained shall be construed as preventing the appointment of regular substitute teachers to replace teachers absent on leave when no persons holding positions created pursuant to this subdivision are available for such replacement.

§ 3. 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, is amended to read as follows:

§ 3012. Tenure: certain school districts. 1. (a) i. 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 prior to 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 three years, except that in the case of a teacher who has rendered satisfactory service as a regular substitute for a period of **up to** 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 **up to** 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~~] **reduced proportionately based upon the length of the satisfactory service**; 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 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 or the trustees of a common school district.

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 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 **satisfactory** annual [~~professional performance review ratings~~] **reviews** 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 **up to** two years and has been appointed to teach the same subject in day schools, on an annual salary, the

teacher shall be appointed [~~for~~] to a probationary period [~~of two years~~] reduced proportionately based upon the length of the satisfactory service; 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 years; provided that, in the case of a classroom teacher, the teacher demonstrates that [~~he or she~~] they received [~~an annual professional performance~~] a satisfactory review [~~rating pursuant to section three thousand twelve-c or section three thousand twelve-d of this chapter~~] in [~~his or her~~] their 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.

(b) i. 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 prior to 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 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.

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 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.

(c) Any person previously appointed to tenure or a probationary period pursuant to the provisions of former section three thousand thirteen of this article shall continue to hold such position and be governed by the provisions of this section notwithstanding any contrary provision of law.

2. (a) 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 nineteen, 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 three years, except that in the case of a teacher who has rendered satisfactory service as a regular substitute for a period of up to two years and, if a classroom teacher, has received satisfactory annual reviews 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 up to two years and has been appointed to teach the same subject in day schools, on an annual salary, such teacher shall be appointed for a probationary period reduced proportionately based upon the length of the satisfactory service; 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, such teacher shall be appointed for a probationary period of two years; provided that, in the case of a classroom teacher, the teacher demonstrates that they received a satisfactory review in their final year of service in such other school district or board of cooperative educational services. The service of a person appointed to any 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.

(b) 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 nineteen, 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 three years. The service of a person appointed to any 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.

3. (a) At the expiration of the probationary [~~term~~] period of a person appointed for such [~~term~~] period prior to 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. Such persons, and all others employed in the teaching service of the schools of such union free school district, common school district and/or school district employing fewer than eight teachers, who have served the probationary period as provided in this section, shall hold their respective positions during good behavior and efficient and competent 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: (a) insubordination, immoral character or conduct unbecoming a teacher; (b) inefficiency, incompetency, physical or mental disability, or neglect of duty; (c) failure to maintain certification as required by this chapter and by the regulations of the commissioner. 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~~] the probationary period.

(b) At the expiration of the probationary [~~term~~] period of a person appointed for such [~~term~~] period 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~~] **satisfactory** annual [~~professional performance review ratings pursuant to section three thousand twelve-c or section three thousand twelve-d of this article, of either effective or highly effective~~] **reviews** in at least three of the four 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 of the preceding four 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 of the four 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.

[~~3.~~] **4.** Notwithstanding any other provision of this section no period in any school year for which there is no required service and/or for which no compensation is provided shall in any event constitute a break or suspension of probationary period or continuity of tenure rights of any of the persons hereinabove described.

§ 4. Section 3014 of the education law, as amended by section 5 of subpart D of part EE of chapter 56 of the laws of 2015, is amended to read as follows:

§ 3014. Tenure: boards of cooperative educational services. 1. (a) Administrative assistants, supervisors, teachers and all other members of the teaching and supervising staff of the board of cooperative educational services appointed prior to 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 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 subdivision one of section three thousand twenty-a or section three thousand twenty-b of this article, the probationary period shall not exceed two years. 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) 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 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 years; provided that, in the case of a classroom teacher, the teacher demonstrates that [~~he or she~~] they received a [~~composite~~] satisfactory annual [~~professional performance~~] review [~~rating pursuant to section three thousand twelve-c or three thousand twelve-d of this chapter of either effective or highly effective~~] in [~~his or her~~] their 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.

(c) 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 nineteen, 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 not to exceed 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, such teacher shall be appointed for a probationary period of two years; provided that, in the case of a classroom teacher, such teacher demonstrates that they received a satisfactory annual review in their 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 proba-

tionary period, upon the recommendation of the district superintendent, by a majority vote of the board of cooperative educational services.

2. (a) On or before the expiration of the probationary [~~term~~] period of a person appointed for such [~~term~~] period prior to 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. 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 notified in writing by the district superintendent not later than sixty days immediately preceding the expiration of [~~his or her~~] their probationary period.

(b) On or before the expiration of the probationary [~~term~~] period of a person appointed for such [~~term~~] period 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 of this article, of either effective or highly effective in at least three of the four preceding years,~~] reviews in at least three of the four 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 of the preceding four 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 of the four 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 notified in writing by the district superintendent not later than sixty days immediately preceding the expiration of [~~his or her~~] **the** probationary period.

§ 5. This act shall take effect immediately.