

# STATE OF NEW YORK

8422

2019-2020 Regular Sessions

## IN ASSEMBLY

June 17, 2019

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

AN ACT authorizing the commissioner of education, in consultation with  
the comptroller to appoint a state monitor to oversee the Wyandanch  
union free school district and establishing the powers and duties of  
the state monitor; and providing for the repeal of such provisions  
upon expiration thereof

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

- 1 Section 1. Definitions. For the purposes of this act:  
2 (a) "State monitor" or "monitor" shall mean the person appointed  
3 pursuant to section two of this act, or an interim person appointed to  
4 such position.  
5 (b) "Board" shall mean the board of education of the Wyandanch union  
6 free school district.  
7 (c) "Superintendent" shall mean the superintendent of the Wyandanch  
8 union free school district.  
9 § 2. Appointment. (a) The commissioner of education shall appoint a  
10 state monitor subject to appropriation, who shall have experience in  
11 school district finance, to provide direct oversight of the fiscal poli-  
12 cies, practices, programs and decisions of the Wyandanch union free  
13 school district, the board of education and the superintendent. The  
14 commissioner of education shall provide the monitor with technical  
15 support and assistance for the purposes of carrying out his or her  
16 duties under this act, if requested by the state monitor. The state  
17 monitor shall serve at the pleasure of the commissioner of education.  
18 (b) The commissioner of education shall have the authority to appoint  
19 a state monitor on an interim basis during the search for a permanent  
20 appointment and in the event of resignation, death, incapacity, or any  
21 other reason which causes the monitor to be unable to perform his or her  
22 duties and until such time as a permanent state monitor is appointed.

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

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1 Any state monitor appointed on an interim basis shall have the powers  
2 and duties of the state monitor contained in this act.

3 (c) The state monitor shall be a state employee as defined in the  
4 public officers law, and shall be paid a fixed salary set by the commis-  
5 sioner of education and shall be reimbursed for actual expenses incurred  
6 in the performance of his or her duties including travel and supplies.  
7 The costs associated with the implementation of this act shall be borne  
8 by the state and shall be paid through a state appropriation.

9 (d) Notwithstanding any other provision of general or special law, the  
10 earnings limitations contained in any such general or special law, local  
11 law and/or charter and applicable to the employment of persons in a  
12 position or positions in public service in any calendar year while  
13 retired and receiving a retirement allowance shall not apply to any  
14 appointment authorized by this act. If applicable, the state monitor may  
15 continue as retired and without loss, suspension or diminution of his or  
16 her retirement allowance provided that such individual is granted a  
17 waiver of retirement earnings limitation by the comptroller.

18 (e) The monitor shall be a non-voting ex-officio member of the school  
19 board. The monitor shall be an individual who is not a resident or  
20 employee of the school district or a relative of board members of the  
21 Wyandanch union free school district at the time of their appointment.

22 § 3. (a) The monitor shall be entitled to attend all meetings of the  
23 board, including executive sessions; provided however, such monitor or  
24 monitors shall not be considered for purposes of establishing a quorum  
25 of the board. The Wyandanch union free school district shall fully coop-  
26 erate with any monitor appointed by the commissioner of education,  
27 including but not limited to providing such monitor or monitors with  
28 access to any necessary documents and records of the district including  
29 access to electronic information systems, databases and planning docu-  
30 ments, consistent with all applicable state and federal statutes includ-  
31 ing but not limited to the Family Educational Rights and Privacy Act  
32 (FERPA) (20 U.S.C. § 1232g) and section 2-d of the education law.

33 (b) The board, in consultation with the monitor, shall adopt a  
34 conflict of interest policy that complies with all existing applicable  
35 laws and regulations and ensures that its board members act in the  
36 school district's best interest and comply with applicable legal  
37 requirements, including but not 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 participate in board deliberation or vote on the matter giving rise to  
43 such conflict, provided that nothing in this subdivision shall prohibit  
44 the board from requesting that the person with the conflict of interest  
45 present information as background or answer questions at a board meeting  
46 prior to the commencement of deliberations or voting relating thereto;

47 (iv) a prohibition against any attempt by the person with the conflict  
48 to influence improperly the deliberation or voting on the matter giving  
49 rise to such conflict;

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

53 (vi) a board member is not, and in the past two years has not been,  
54 employed by the board; and

55 (vii) a board member is not, and in the past two years has not been,  
56 employed by an entity that received remuneration valued at more than one

1 thousand dollars for goods and services provided to the board or the  
2 school district or received any other form of financial assistance  
3 valued at more than one thousand dollars from the board or the school  
4 district.

5 § 4. Financial plan. The financial plan shall be hereinafter known as  
6 the "plan". The financial plan shall contain actions sufficient to  
7 ensure, with respect to the major operating funds for each fiscal year  
8 of the plan, that annual aggregate operating expenses for such fiscal  
9 year shall not exceed annual aggregate operating revenues for such  
10 fiscal year. Each financial plan and financial plan modification shall  
11 provide that the major operating funds of the district will be balanced  
12 in accordance with generally accepted accounting principles. The school  
13 district shall develop the financial plan to be reviewed and approved by  
14 the monitor. The plan may, from time to time, be modified upon the  
15 approval of the monitor. The financial plan shall include statements of  
16 all estimated revenues and of all expenditures and cash flow projections  
17 of the district. Not later than November first, two thousand nineteen,  
18 the district, in consultation with the state monitor shall develop a  
19 proposed financial plan for the two thousand nineteen--two thousand  
20 twenty fiscal year and the four subsequent fiscal years. The financial  
21 plan shall contain actions sufficient to ensure that annual aggregate  
22 operating expenses for such fiscal year shall not exceed annual aggregate  
23 operating revenues for such fiscal year and that the major operating  
24 funds of the district will be balanced in accordance with generally  
25 accepted accounting principles. The proposed financial plan shall be  
26 made public, including on the district website, and available at least  
27 three business days before a public hearing is held. The board of educa-  
28 tion of the Wyandanch union free school district shall conduct a public  
29 hearing as soon as practicable after the proposed financial plan is  
30 developed and shall consider the input of the community before adopting  
31 the plan. Once the proposed financial plan has been adopted by the board  
32 of education, such plan shall be submitted to the state monitor for  
33 final approval. Not later than fifteen calendar days after submission to  
34 the monitor, unless the monitor needs additional information to make an  
35 informed decision, the monitor shall approve or disapprove the plan. In  
36 the event the monitor shall disapprove such plan, the monitor shall  
37 promptly thereafter notify the district of its reasons. Within fifteen  
38 calendar days from the receipt of such notification, the district shall  
39 modify the rejected plan. If the plan modification is approved by the  
40 monitor, the board of education shall adopt and implement such plan. If  
41 the plan modification is not approved by the monitor, the monitor shall  
42 impose a plan of his/her own formulation, and the board shall then adopt  
43 and implement such plan. The final financial plan shall be made avail-  
44 able to the public, including on the district website, at least three  
45 business days after adoption.

46 § 5. Fiscal and operational oversight by the commissioner of education  
47 and the comptroller. During the effective period of this act the comp-  
48 troller shall undertake an enhanced review of the district budget.

49 (a) The board of education shall annually submit the school district's  
50 proposed budget for the next succeeding school year to the monitor no  
51 later than 45 days before the date scheduled for the school district's  
52 budget vote. The monitor shall review the proposed budget to ensure  
53 that it is balanced within the context of revenue and expenditure esti-  
54 mates and mandated programs. The monitor shall present its findings to  
55 the board of education no later than 30 days prior to the date scheduled  
56 for the school district's budget vote. The board of education, with the

1 approval of the monitor shall make adjustments to the proposed budget  
2 consistent with any recommendations made by the monitor. The school  
3 district shall make available on the district's website: the initial  
4 proposed budget; the monitor's findings; and the final proposed budget  
5 prior to the date of the school district's budget vote.

6 (b) The district shall provide reports, on a quarterly basis, to the  
7 monitor, and/or at such other times as may be requested by the monitor,  
8 and the district shall annually provide to the commissioner and comp-  
9 troller reports on the fiscal and operational status of the school  
10 district to ensure that it maintains a balanced budget in accordance  
11 with subdivision (a) of this section, including a list of all contracts  
12 that the district entered into throughout the year.

13 (c) The comptroller shall annually conduct a general fiscal audit of  
14 the Wyandanch union free school district, and the district shall post  
15 the comptroller's audit and the board's response on the district's  
16 website.

17 (d) The monitor shall have the power to approve or disapprove the  
18 appointment of the superintendent by the board of education. If the  
19 monitor disapproves of the appointment, then the board shall recommend a  
20 new candidate for the monitor to approve or disapprove until an appoint-  
21 ment is approved by the monitor.

22 (e) The monitor shall have the authority to approve or deny all travel  
23 outside the district.

24 (f) The monitor shall have authority to approve or deny all contracts  
25 and expenditures of the district, except for collective bargaining  
26 agreements negotiated in accordance with article 14 of the civil service  
27 law.

28 (g) The monitor shall work with the district's shared decision-making  
29 committee formed in accordance with section 100.11 of the commissioner  
30 of education's regulations in developing any academic plans, district  
31 goals, implementation of district priorities or budgetary recommenda-  
32 tions.

33 (h) The monitor shall assist in resolving any disputes and conflicts,  
34 included but not limited to, those between the superintendent and the  
35 board of education and among the members of the board of education.

36 (i) The monitor shall attempt to engage in cost saving measures  
37 including, but not limited to, shared service agreements.

38 § 6. This act shall take effect immediately and shall expire June 30,  
39 2024, when upon such date the provisions of this act shall be deemed  
40 repealed.