

# STATE OF NEW YORK

---

6755

2019-2020 Regular Sessions

## IN SENATE

September 30, 2019

---

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

AN ACT authorizing the commissioner of education, in consultation with the comptroller to appoint a monitor to oversee the Rochester City school district and establishing the powers and duties of the monitor; 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. For the purposes of this act:  
2 (a) "Monitor" shall mean the person appointed pursuant to section two  
3 of this act.  
4 (b) "Board of education" or "board" shall mean the board of education  
5 of the Rochester City school district.  
6 (c) "Superintendent" shall mean the superintendent of the Rochester  
7 City school district.  
8 (d) "Commissioner" shall mean the commissioner of education.  
9 (e) "School district" or "district" shall mean the Rochester City  
10 school district.  
11 (f) "Comptroller" shall mean the state comptroller.  
12 (g) "Relatives" shall mean a Rochester City school district board  
13 member's spouse, domestic partner, child, stepchild, stepparent, or any  
14 person who is a direct descendant of the grandparents of the current  
15 board member or of the board member's spouse or domestic partner.  
16 § 2. Appointment. (a) The commissioner of education shall appoint a  
17 monitor, subject to appropriation, to provide direct oversight of the  
18 fiscal policies, practices, programs and decisions of the school  
19 district, the board of education and the superintendent. The commissioner  
20 of education shall provide the monitor with technical support and  
21 assistance for the purposes of carrying out his or her duties under this

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

LBD13879-01-9

1 act, if requested by the monitor. The monitor shall serve at the pleas-  
2 ure of the commissioner of education.

3 (b) The monitor shall be paid a fixed salary set by the commissioner  
4 of education and shall be reimbursed for actual and necessary expenses  
5 incurred in the performance of his or her duties including travel and  
6 supplies. The costs associated with the implementation of this act shall  
7 be borne by the state and shall be paid through a state appropriation.

8 (c) The monitor shall be a non-voting ex-officio member of the school  
9 board. The monitor shall be an individual who is not a resident or  
10 employee of the school district or a relative of board members of the  
11 school district at the time of his or her appointment. The monitor shall  
12 have experience in school district finances and, to the extent practica-  
13 ble, shall have experience in one or more 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; or
- 17 (iv) educating English language learners.

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

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

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

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

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

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

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

50 § 4. Financial plan. The financial plan shall be hereinafter known as  
51 the "plan". (a) No later than November first, two thousand twenty, the  
52 board, in consultation with the monitor, shall develop a proposed finan-  
53 cial plan for the two thousand twenty--two thousand twenty-one school  
54 year and the four subsequent school years. The financial plan shall  
55 ensure that annual aggregate operating expenses shall not exceed annual  
56 aggregate operating revenues for such school year and that the major

operating funds of the district be balanced in accordance with generally accepted accounting principles. The financial plan shall include statements of all estimated revenues, expenditures, and cash flow projections of the district.

(b) Prior to submitting the proposed plan to the monitor for review and approval of the monitor, the board of education shall conduct a public hearing on the plans and consider the input of the community. The proposed plan shall be made public on the district's website at least three business days before such public hearing. Once the proposed financial plan has been adopted by the board of education, such plan shall be submitted to the monitor for final approval.

(c) No later than fifteen calendar days after submitting the proposed plan to the monitor, unless the monitor needs additional information to make an informed decision, the monitor shall approve or disapprove the financial plan. In the event the monitor shall disapprove such plan, the monitor shall promptly provide the board written notice of its reasons for disapproval. Within fifteen calendar days from the receipt of such notice, the board shall modify the rejected plan. If the modified plan is approved by the monitor, the board of education shall adopt and implement such plan. If the modified plan is not approved by the monitor, the monitor shall impose a plan of his or her own formulation, and the board shall then adopt and implement such plan. The final financial plan shall be made available to the public, including on the district's website, at least three business days after adoption.

§ 5. Fiscal and operational oversight by the commissioner of education and the comptroller.

(a) The board of education shall annually submit the school district's proposed budget for the next succeeding school year to the monitor no later than 45 days before the date scheduled for the school district's budget vote. The monitor shall review the proposed budget to ensure that it is balanced within the context of revenue and expenditure estimates and mandated programs and, to the greatest extent possible, is consistent with the financial plan. The monitor shall present its findings to the board of education no later than 30 days prior to the date scheduled for the school district's budget vote. The board of education, with the approval of the monitor, shall make adjustments to the proposed budget consistent with any recommendations made by the monitor. The school district shall make available on the district's website: the initial proposed budget; the monitor's findings; and the final proposed budget prior to the date of the school district's budget vote. Nothing in this act shall be construed to abrogate the duties and responsibilities of the school district consistent with applicable state law and regulations.

(b) The district shall provide quarterly reports to the monitor and annual reports to the commissioner and comptroller on the fiscal and operational status of the school district to ensure that it maintains a balanced budget in accordance with subdivision (a) of this section. In addition, the monitors shall provide an annual report to the commissioner and comptroller on all contracts that the district entered into throughout the year.

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

(d) The monitor shall have the power to approve or disapprove the appointment of a superintendent by the board of education. If the monitor disapproves of the appointment, then the board shall recommend a new

1 candidate for the monitor to approve or disapprove until an appointment  
2 is approved by the monitor.

3 (e) The monitor shall have the authority to approve or deny all travel  
4 outside the district paid for by the school district.

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

9 (g) The monitor shall work with the district's shared decision-making  
10 committee formed in accordance with part 100.11 of the commissioner of  
11 education's regulations in developing district goals, implementation of  
12 district priorities or budgetary recommendations.

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

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

18 § 6. This act shall take effect immediately and shall expire June 30,  
19 2025, when upon such date the provisions of this act shall be deemed  
20 repealed.