

STATE OF NEW YORK

10643

IN ASSEMBLY

August 12, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Benedetto)
-- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to establishing school registration and support and assistance for designated schools; and to repeal certain sections of the education law relating thereto

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

1 Section 1. Sections 211-a, 211-b, and 211-f of the education law are
2 REPEALED and a new section 211-a is added to read as follows:

3 § 211-a. School registration and support and assistance for designated
4 schools. 1. Registration of public schools. All public schools in the
5 state shall be registered by the board of regents, provided, however,
6 that charter schools shall not be subject to registration pursuant to
7 this section, but shall be held accountable for meeting or exceeding the
8 student performance standards and student assessment requirements appli-
9 cable to other public schools in accordance with the provisions of arti-
10 cle fifty-six of this chapter. Once registered, a school district shall
11 not close, merge, split, change the grade configuration, or substantial-
12 ly change the enrollment of the registered school without the prior
13 consent of the commissioner. The commissioner shall deny or require
14 modifications to a request only where approving the request shall have a
15 demonstrable and substantial negative impact on the learning environment
16 for students.

17 2. Annual determination of school need for support and assistance. The
18 commissioner shall determine annually whether each public school is in
19 need of additional support and assistance based on multiple measures,
20 including academic and non-academic measures, as determined by the
21 commissioner.

22 3. Identification of schools for additional support and assistance. If
23 based on the annual determination, pursuant to subdivision two of this
24 section, the commissioner determines that a school would benefit from
25 additional support and assistance based on academic performance and
26 other measures, the commissioner may designate the school for additional
27 support and assistance. Each school identified under this subdivision

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

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1 shall develop an improvement plan to address the identified academic
2 performance and other measures. Such plan shall be developed in consul-
3 tation with a community engagement team appointed in accordance with
4 subdivision thirteen of this section, in such form and in accordance
5 with such format as may be prescribed by the commissioner, and approved
6 by the board of education or chancellor, in a school district in a city
7 of one million or more inhabitants, by such date as the commissioner may
8 establish.

9 4. Identification of schools for intensive support and assistance. If
10 based on the annual determination, pursuant to subdivision two of this
11 section, a school is among those in the state as determined by the
12 commissioner that would most benefit from intensive support and assist-
13 ance, the commissioner may designate the school for intensive support
14 and assistance. Each school identified under this subdivision shall
15 develop an improvement plan to address the identified academic perform-
16 ance and other measures. Such plan shall be developed in consultation
17 with a community engagement team appointed in accordance with subdivi-
18 sion thirteen of this section, in such form and in accordance with such
19 format as may be prescribed by the commissioner, and approved by the
20 board or education or chancellor, in a school district in a city of one
21 million or more inhabitants, by such date as the commissioner may estab-
22 lish.

23 5. Alignment of federal and state accountability requirements. To the
24 greatest extent practicable, the commissioner shall align the process
25 for identification of schools for additional support and assistance and
26 intensive support and assistance and the actions that are required to be
27 taken as a result of such identifications with the state's plan approved
28 by the United States secretary of education for meeting the requirements
29 of section one thousand one hundred eleven of the elementary and second-
30 ary education act of nineteen hundred sixty-five, as amended, and the
31 federal regulations implementing such statute.

32 6. Demonstrable improvement targets for selected intensive support and
33 assistance schools. The commissioner shall assign school demonstrable
34 improvement targets to a school that:

35 a. is determined by the commissioner to be farthest from state stand-
36 ards upon the school's initial identification for intensive support and
37 assistance.

38 b. has remained identified for intensive support and assistance for
39 three consecutive years.

40 7. Removal of schools from designation. The commissioner shall estab-
41 lish performance targets for schools identified as in need of additional
42 support and assistance pursuant to subdivision three of this section or
43 intensive support and assistance pursuant to subdivision four of this
44 section. Schools that achieve their performance targets shall be removed
45 from their designation.

46 8. Educational support specialist. a. If a school is unable to make
47 demonstrable improvement, as determined by the commissioner, the commis-
48 sioner may appoint an educational support specialist to provide support
49 and assistance to the school and district in implementing the school's
50 improvement plan. The educational support specialist shall have:

51 (i) either:

52 (A) New York state certification as a school district administrator,
53 school district leader or a substantially equivalent certification, as
54 determined by the commissioner, issued by a jurisdiction outside the
55 state; or

(B) a doctorate in education, doctorate in philosophy in education or other comparable advanced degree and a minimum of five years working directly in low performing districts or dramatically raising the achievement of high needs students in moderate to high performing districts;

(ii) experience as a principal assistant superintendent, deputy superintendent, superintendent, or comparable administrator in a school district, charter school, BOCES or a nonprofit educational organization within the past three years or, where applicable, within the immediately preceding three years from the date of appointment as an educational support specialist;

(iii) demonstrated an ability to successfully work with at risk populations in closing achievement gaps; and

(iv) experience in school turnaround and sustaining the academic success of at risk students.

b. The educational support specialist shall be neither a current employee of the school district nor be permitted to do other compensated work for the school district without the approval of the commissioner. The educational support specialist shall be appointed by and serve at the pleasure of the commissioner. The commissioner shall establish the rate of compensation for the educational support specialist to be paid by the school district. Such compensation may not exceed the salary of the school district's superintendent except in extraordinary circumstances which shall be outlined by the commissioner to the board of education. The educational support specialist shall be entitled to defense and indemnification by the school district to the same extent as a school district employee. The contract between the educational support specialist and the school district shall be subject to approval by the commissioner.

(i) The educational support specialist shall:

(A) Support and assist the school in implementing an improvement plan for such school working with the district administration and the community engagement team.

(B) Annually report to the board of education or chancellor, in a school district in a city of one million or more inhabitants, and to the commissioner on findings and recommendations regarding the school's implementation of its improvement plan. Subject to the provisions of a district's collective bargaining agreements, the educational support specialist may recommend that the district take the following actions regarding the school and provide a rationale for why these changes will assist the school in meeting demonstrable improvement targets:

(1) expand, alter, or replace the curriculum and program offerings;

(2) replace principals and assistant principals who the educational support specialist determines are unable or unwilling to implement the school's improvement plan;

(3) increase the budget, subject to the availability of funds, or reallocate the uses of the existing budget of the school;

(4) expand the school day, or school year, or both;

(5) for a school that offers first grade, add pre-kindergarten and full-day kindergarten classes, if the school does not already have such classes; and

(6) expand, alter, or replace the professional development program for school staff, with an emphasis on strategies that involve teacher input and feedback.

(ii) Upon receipt of any recommendations from the educational support specialist, the board of education, or chancellor, in a school district

1 in a city of one million or more inhabitants working with the community
2 engagement team, shall either take such actions as are necessary to
3 implement the recommendations or provide a written explanation to the
4 commissioner of its reasons for not implementing such recommendations.
5 No recommendations may be adopted by the school district that alters the
6 collective bargaining agreement without the approval of the affected
7 collective bargaining unit. The commissioner shall review the educa-
8 tional support specialist's report and either direct the district to
9 take the actions recommended by the educational support specialist and
10 any other actions that the commissioner deems appropriate or, if the
11 written explanation provided by the district has merit, as determined by
12 the commissioner, excusing the district from such recommendations.

13 9. Disagreement with preliminary determination. Prior to designating a
14 school as needing additional support and assistance pursuant to subdivi-
15 sion three of this section, intensive support and assistance pursuant to
16 subdivision four of this section, placing the school under registration
17 review pursuant to subdivision ten of this section, or making a determi-
18 nation that a school has been unable to make annual progress or demon-
19 strable improvement, the commissioner shall notify the district of their
20 preliminary determination and offer the district an opportunity to disa-
21 gree in writing before they make a final determination in regard to the
22 school.

23 10. Placement of schools under registration review. If, after three
24 school years from the commissioner assigning the school demonstrable
25 improvement targets, the commissioner determines that a school has been
26 unable to make demonstrable improvement, the commissioner shall place
27 the school's registration under review, unless the commissioner finds
28 there are extenuating or extraordinary circumstances that warrant
29 providing the school with more time to achieve such demonstrable
30 improvement targets. Notwithstanding any other provisions of this
31 section, the commissioner shall not place under registration review
32 schools within a special act school district as defined in subdivision
33 eight of section four thousand one of this chapter.

34 11. Public notification. a. Upon placing the registration of a school
35 under review pursuant to subdivision ten of this section, the commis-
36 sioner shall notify the board of education or chancellor, in a school
37 district in a city of one million or more inhabitants, that the school
38 has been placed under registration review, and that the school is at
39 risk of having its registration revoked. Upon receipt of such notifica-
40 tion, the board of education, or chancellor, in a school district in a
41 city of one million or more inhabitants, shall take appropriate action
42 to notify the general public and school community of the issuance of
43 such notification pursuant to commissioner's regulations and provide
44 information on the school district's plan to improve the school's
45 performance.

46 b. Each year that a school remains under registration review, the
47 school district shall offer parents an opportunity to enroll their chil-
48 dren in a different registered school operated by the school district in
49 which seats in the same grade as the child will attend the following
50 school year are available. Districts shall adopt such enrollment poli-
51 cies as are necessary to give priority to parents who wish to transfer
52 their child from a school that has been placed under registration
53 review.

54 12. Registration review team. Upon the placement of a school's regis-
55 tration under review pursuant to subdivision ten of this section, the
56 commissioner, after consultation with the school district, shall assign

1 a registration review team. The registration review team shall conduct
2 resource and program and planning audits and examine the quality of
3 curriculum, instructional plans, and teaching in the school, the learn-
4 ing opportunities and support services available to students, and the
5 organization and operations of the school. After such review the team
6 shall provide diagnostic recommendations for school improvement, which
7 may include administrative and operational improvements. The superinten-
8 dent shall consider the recommendation of the team for inclusion in the
9 school improvement plan. The superintendent shall provide annually a
10 report to the commissioner on the school's progress on the implementa-
11 tion of the improvement plan.

12 13. Community engagement team. Upon identification of a school for
13 additional support and assistance, intensive support and assistance or
14 designation of a school for registration review pursuant to subdivision
15 ten of this section, the district shall establish a community engagement
16 team, which shall include community stakeholders, including but not
17 limited to the school principal, parents and guardians, teachers and
18 other school staff and students. Membership of teachers and other
19 school staff on such team shall be based upon the recommendation of the
20 respective collective bargaining unit. Membership of such team may be
21 modified by the district at any time. Such team shall develop recommen-
22 dations for improvement of the school and shall solicit input through
23 public engagement. The community engagement team shall present its
24 recommendations periodically to the school leadership and, as applica-
25 ble, the educational support specialist.

26 14. Required actions resulting from schools placed under registration
27 review. The commissioner may require school board members to undergo
28 conflict resolution training and up to fifteen hours of professional
29 development annually to support the implementation of a school improve-
30 ment plan for any school that has been placed under registration review
31 pursuant to subdivision ten of this section.

32 15. Removal from registration review. Schools placed under registra-
33 tion review that make demonstrable improvement, as determined by the
34 commissioner, for two consecutive years, or that are removed from desig-
35 nation as intensive support and assistance schools, shall be removed
36 from registration review.

37 16. Inability to make demonstrable improvement while under registra-
38 tion review. a. If, after two full school years under registration
39 review, the commissioner determines that the school is unable to make
40 demonstrable improvement in meeting performance targets established by
41 the commissioner, the commissioner shall require the district to take
42 one of the following actions:

43 (i) Enter into a contract to have the school be managed by an educa-
44 tional partnership organization pursuant to section two hundred eleven-c
45 of this part;

46 (ii) Close or phase out the school in accordance with a plan, which
47 may include the opening of a replacement school, approved by the commis-
48 sioner. In the event that a school district seeks to open a school to
49 replace a closing or phasing out school, the commissioner may assign an
50 educational support specialist to oversee the opening of a new school.
51 The assignment of the educational support specialist may be continued
52 until the school has for two consecutive years met performance targets
53 established by the commissioner.

54 b. A school shall be removed from registration review status upon an
55 educational partnership organization, entering into a contract to oper-
56 ate the school pursuant to this subdivision but shall be designated as

1 an intensive support and assistance school and shall be given demonstra-
2 ble improvement targets.

3 c. The commissioner may provide schools more time to demonstrate
4 demonstrable improvement upon a finding that there are extraordinary or
5 extenuating circumstances that warrant such an extension, as the commis-
6 sioner determines.

7 17. Establishment of a community school. A community school model
8 shall be implemented in any school which is managed by an educational
9 partnership organization, pursuant to subdivision sixteen of this
10 section.

11 18. Revocation of registration. If a school district fails to take one
12 of the actions pursuant to paragraph a of subdivision sixteen of this
13 section, the commissioner may designate the school as an unacceptable
14 learning environment, revoke the registration of the school, and cause
15 the district to implement a plan for the education of the students who
16 attend such school. Before taking such action, the commissioner shall
17 offer the school district an opportunity to provide justification for
18 why the commissioner should not take such actions, in a timeframe
19 prescribed by the commissioner. No school district may operate a public
20 school whose registration has been revoked pursuant to this subdivision.

21 19. Collective bargaining agreements. Notwithstanding any other
22 provision of law, rule, or regulation to the contrary, all collective
23 bargaining agreements entered into after July first, two thousand twen-
24 ty-three shall be consistent with the requirements of this section,
25 unless the agreement relates to the two thousand twenty-two--two thou-
26 sand twenty-three school year only. Nothing in this section shall be
27 construed to abrogate any conflicting provisions of any collective
28 bargaining agreement in effect on July first, two thousand twenty-three
29 during the term of such agreement and until the entry into a successor
30 collective bargaining agreement, provided that notwithstanding any other
31 provision of law to the contrary, upon expiration of such term and the
32 entry into a successor collective bargaining agreement the provisions of
33 this section shall apply; provided however no school district shall
34 adopt an improvement plan in conflict with the district collective
35 bargaining agreement without receiving approval from the affected
36 collective bargaining unit.

37 20. Schools in receivership. All schools that were in receivership in
38 the two thousand twenty-two--two thousand twenty-three school year
39 pursuant to the former section two hundred eleven-f of this part and are
40 designated for intensive support and assistance in the two thousand
41 twenty-three--two thousand twenty-four school year pursuant to subdivi-
42 sion four of this section shall be placed under registration review
43 pursuant to subdivision eight of this section.

44 21. Regulations. The commissioner shall promulgate regulations to
45 implement the provisions of this section.

46 § 2. Subdivision 3 of section 211-c of the education law, as added by
47 section 1 of part A of chapter 57 of the laws of 2007, is amended to
48 read as follows:

49 3. The commissioner may appoint a distinguished educator to a school
50 district[~~;~~

51 ~~a-~~] when such district or a school within such district has failed to
52 achieve adequate yearly progress for four or more years[~~;~~

53 ~~b. as a member of a joint school intervention team pursuant to para-~~
54 ~~graph b of subdivision two of section two hundred eleven-b of this~~
55 ~~part].~~

1 § 3. This act shall take effect July 1, 2023. Effective immediately,
2 the addition, amendment and/or repeal of any rule or regulation neces-
3 sary for the implementation of this act on its effective date are
4 authorized to be made and completed on or before such effective date.