

STATE OF NEW YORK

5683--A

2021-2022 Regular Sessions

IN ASSEMBLY

February 23, 2021

Introduced by M. of A. ZEBROWSKI -- read once and referred to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend chapter 89 of the laws of 2016 relating to supplementary funding for dedicated programs for public school students in the East Ramapo central school district, in relation to the powers and duties of monitors in the East Ramapo central school district

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

1 Section 1. Paragraph (a) of section 3 of chapter 89 of the laws of
2 2016 relating to supplementary funding for dedicated programs for
3 public school students in the East Ramapo central school district is
4 amended and a new paragraph (c) is added to read as follows:

5 (a) Appointment of monitor team. In accordance with the powers and
6 duties of the board of regents and the commissioner pursuant to subdivi-
7 sion 2 of section 305 of the education law, section 308 of the education
8 law, and section 215 of the education law, the commissioner shall
9 appoint up to [~~3~~] 2 monitors to carry out the provisions of this act
10 including but not limited to providing oversight, guidance and technical
11 assistance related to the educational and fiscal policies, practices,
12 programs and decisions of the East Ramapo central school district, the
13 board of education and the superintendent.

14 (c) The reasonable and necessary expenses incurred by the monitor or
15 monitors while performing his or her official duties shall be paid by
16 the school district. Notwithstanding any other provision of law, the
17 monitor or monitors shall be entitled to defense and indemnification by
18 the school district to the same extent as a school district employee.

19 § 2. Sections 4, 6, 7 and 8 of chapter 89 of the laws of 2016 relating
20 to supplementary funding for dedicated programs for public school
21 students in the East Ramapo central school district, section 8 as

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

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1 amended by section 42-b of part A of chapter 56 of the laws of 2020, are
2 amended and two new sections 9 and 10 are added to read as follows:

3 § 4. (a) (i) The monitor or monitors shall be entitled to attend all
4 meetings of the board, including executive sessions; provided however,
5 such monitor or monitors shall not be considered for purposes of estab-
6 lishing a quorum of the board[~~, provided further that the monitors may~~
7 ~~be excused from executive sessions when privileged issues are being~~
8 ~~discussed~~]. The East Ramapo central school district shall fully cooper-
9 ate with any monitor or monitors appointed by the commissioner, includ-
10 ing but not limited to providing such monitor or monitors with access,
11 within 48 hours of such request from the monitor or monitors, to any
12 necessary documents and records of the district including access to
13 electronic information systems, databases and planning documents,
14 consistent with all applicable state and federal statutes including but
15 not limited to Family Educational Rights and Privacy Act (FERPA)(20
16 U.S.C. §1232g) and section 2-d of the education law.

17 (ii) The board clerk shall provide the monitor or monitors with copies
18 of the board agenda and all resolutions and motions on such agenda for
19 each board meeting no later than 72 hours prior to such board meeting.
20 If a proposed resolution or motion is for the purpose of approving a
21 contract or to comply with state law or regulation and the date to
22 comply with such law or regulation is within 21 days of the board meet-
23 ing, the board clerk shall provide the monitor or monitors with copies
24 of the proposed resolution and proposed contract language at least seven
25 days prior to such meeting.

26 (iii) In the event the monitor or monitors are not provided with
27 copies of proposed resolutions or motions 72 hours prior to a board
28 meeting or in the case of a proposed resolution or motion for the
29 purpose of approving a contract or to comply with state law or regu-
30 lation, seven days prior to the next board meeting, the monitor or moni-
31 tors may, at their discretion, remove an item including board resol-
32 utions or motions, except for resolutions or motions related to
33 collective bargaining agreements negotiated in accordance with article
34 14 of the civil service law, from consideration by the board at such
35 meeting. An item removed from consideration by the monitor or monitors
36 may not be reconsidered by the board for a period of 10 days or the next
37 board meeting; whichever is later unless the monitor or monitors
38 expressly authorizes consideration at an earlier date.

39 (b) The board, in consultation with the monitor or monitors, shall
40 adopt a conflict of interest policy that complies with all existing
41 applicable laws, rules and regulations that ensures its board members
42 and administration act in the school district's best interest and comply
43 with applicable legal requirements. The conflict of interest policy
44 shall include, but not be limited to:

45 (i) a definition of the circumstances that constitute a conflict of
46 interest;

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

48 (iii) a requirement that the person with the conflict of interest not
49 be present at or participate in board deliberations or votes on the
50 matter giving rise to such conflict, provided that nothing in this
51 subdivision shall prohibit the board from requesting that the person
52 with the conflict of interest present information as background or
53 answer questions at a board meeting prior to the commencement of delib-
54 erations or voting relating thereto;

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

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

7 (c) In the event that the monitor or monitors find that an adopted
8 resolution or motion, a proposed resolution or motion, or that the
9 board's failure to act violates state law, the rules of the board of
10 regents, the regulations of the commissioner, or is inconsistent with
11 the terms of the long term strategic academic and fiscal improvement
12 plan, the monitor or monitors may:

13 (i) Override adopted or proposed resolutions or motions by the board
14 through the issuance of a directive which shall contain the specific
15 findings as to the necessity of such override and any potential correc-
16 tive action by the board that would address the deficiency in such
17 adopted or proposed resolution or motion. The monitor or monitors shall
18 provide written notice to the board, superintendent and commissioner of
19 their intention to override the adopted or proposed resolution or motion
20 at any time but in no event later than 48 hours after such resolution or
21 motion was adopted by the board unless the commissioner has extended the
22 period to override due to extenuating circumstances that necessitate
23 additional time. The override notice shall stay the proceedings of the
24 board on such adopted resolution or motion or, if the notice is provided
25 prior to action by the board, it shall remove such proposed resolution
26 or motion from consideration by the board pending the issuance of a
27 directive by the monitor or monitors. The monitor or monitors must
28 submit the directive to the board, superintendent and the commissioner
29 no later than 10 days following notice of such override. Upon the issu-
30 ance of a directive, the override of the board's adopted or proposed
31 resolution or motion shall be final and conclusive unless the monitor or
32 monitors fail to issue such directive within 10 days or within such
33 period established by the monitor or monitors if the period was
34 extended, withdraws such override, or the commissioner overrules the
35 monitor or monitors' override within 10 days of the issuance of the
36 directive. The monitor or monitors may extend the period to submit such
37 directive, at intervals of 10 additional days for each extension, if the
38 board, superintendent or school district employees fail to provide all
39 relevant information requested by the monitor or monitors related to the
40 adopted or proposed resolution or motion subject to such override within
41 48 hours of such request.

42 (ii) Submit a resolution for adoption by the board. The resolution
43 shall be submitted to the clerk no later than 48 hours prior to the next
44 scheduled board meeting who shall cause the resolution to be placed on
45 the next board meeting agenda and a copy to be issued to the board,
46 superintendent and commissioner accompanied by specific findings as to
47 the necessity of such resolution. The monitor or monitors may direct the
48 board to meet at a date prior to their next scheduled board meeting to
49 take up such resolution. The monitor or monitors may withdraw the
50 resolution prior to, or during, the next board meeting, if the board
51 takes sufficient action to resolve the issues contained in the resol-
52 ution. If the resolution is not withdrawn, it shall be deemed to be
53 adopted at the next board meeting through its submission and shall have
54 the full force and effect as any other resolution adopted by the board.

55 (iii) The monitor or monitors shall not override an adopted or
56 proposed resolution or motion or submit a resolution related to collec-

1 tive bargaining agreements negotiated in accordance with article 14 of
2 the civil service law.

3 (d) The monitor or monitors may direct the board, superintendent,
4 and/or other school district officers to undergo any training as deemed
5 necessary and pursuant to timelines established by the state monitor or
6 monitors.

7 (e) The monitor or monitors shall have the power to approve or disap-
8 prove the appointment of a superintendent by the board of education on
9 or after the effective date of this act. The board shall submit the
10 recommendation for superintendent to the monitor or monitors for
11 approval. The monitor or monitors shall have 10 days to approve or
12 disapprove the board's recommendation. If after such period no action is
13 taken by the monitor or monitors, the recommendation for superintendent
14 shall be deemed approved. If the monitor or monitors disapproves of the
15 appointment, then the board shall recommend a new candidate for the
16 monitor or monitors to approve or disapprove until an appointment is
17 approved by the monitor or monitors. In the event that a vacancy occurs
18 in the position of superintendent due to the disapproval of a recommen-
19 dation, the monitor or monitors may appoint a current school employee as
20 interim superintendent until a recommendation for superintendent is
21 approved.

22 § 6. Fiscal and operational oversight by the commissioner. During the
23 effective period of this act the commissioner shall undertake an
24 enhanced review of the district budget.

25 (a) The board of education [~~in consultation with the monitor or moni-~~
26 ~~ters~~] shall annually submit the school district's proposed budget for
27 the next succeeding school year to the [~~commissioner~~] monitor or moni-
28 tors no later than [~~45 days before the date scheduled for~~] March first
29 prior to the school district's annual budget vote. The [~~commissioner~~]
30 monitor or monitors shall review the budget to ensure that it, to the
31 greatest extent possible, is consistent with the long term strategic
32 academic and fiscal improvement plan developed and adopted pursuant to
33 this act and expands educational programming for students including but
34 not limited to extracurricular activities, course offerings, non-mandat-
35 ed support services, non-mandated art and music classes, programs and
36 services for English language learners and students with disabilities,
37 and maintaining class size. The [~~commissioner~~] monitor or monitors shall
38 also review the proposed budget to ensure that it is balanced within the
39 context of revenue and expenditure estimates and mandated programs. The
40 [~~commissioner~~] monitor or monitors shall present his or her findings to
41 the board of education and to the commissioner no later than [~~30~~] 45
42 days prior to the date scheduled for the school district's annual budget
43 vote. The commissioner shall require the board of education [~~shall~~] to
44 make adjustments to the proposed budget consistent with any recommenda-
45 tions made by the [~~commissioner~~] monitor or monitors if the commissioner
46 determines such amendments are necessary to comply with the long term
47 strategic academic and fiscal improvement plan under this act. The
48 school district shall make available on the district's website: the
49 initial proposed budget, the [~~commissioner's~~] monitor or monitors' find-
50 ings, and the final proposed budget [~~prior to the date of the school~~
51 ~~district's budget vote~~] at least seven days prior to the date of the
52 school district's budget hearing. In the event of a revote, the board of
53 education, in conjunction with the monitor or monitors, shall develop
54 and submit the school district's proposed budget for the next succeeding
55 school year to the commissioner no later than seven days prior to the
56 budget hearing. The board of education shall provide the commissioner

1 with any information he or she requests in order to make a determination
2 pursuant to this subdivision within three business days of such request.

3 ~~(b) [The monitor or monitors appointed by the commissioner shall quar-~~
4 ~~terly, and the district shall annually provide to the commissioner~~
5 ~~reports on the fiscal and operational status of the school district to~~
6 ~~ensure compliance with subdivision (a) of this section. In addition,~~
7 ~~monitors shall provide an annual report to the commissioner and comp-~~
8 ~~troller on contracts that the district entered into throughout the year.~~
9 ~~All reports shall be subject to review by the comptroller at the request~~

10 ~~of the commissioner.]~~ The district shall provide quarterly reports to
11 the monitor or monitors and annual reports to the commissioner and board
12 of regents on the academic, fiscal, and operational status of the school
13 district. In addition, the monitor or monitors shall provide semi-annual
14 reports to the commissioner, board of regents, the governor, the tempo-
15 rary president of the senate, and the speaker of the assembly on the
16 academic, fiscal, and operational status of the school district. Such
17 semi-annual report shall include all the contracts that the district
18 entered into throughout the year. All reports shall be subject to
19 review by the comptroller at the request of the commissioner.

20 (c) The monitor or monitors shall have the authority to disapprove
21 travel outside the state paid for by the district.

22 (d) The monitor or monitors shall work with the district's shared
23 decision-making committee as defined in 8 NYCRR 100.11 in developing and
24 revising the long term strategic academic and fiscal improvement plan,
25 district goals, implementation of district priorities and budgetary
26 recommendations.

27 (e) The monitor or monitors shall assist in resolving any disputes and
28 conflicts, including but not limited to, those between the superinten-
29 dent and the board of education and among the members of the board of
30 education.

31 (f) The monitor or monitors may recommend, and the board shall consid-
32 er by vote of a resolution at the next scheduled meeting of the board,
33 cost saving measures including, but not limited to, shared service
34 agreements.

35 § 7. To ensure compliance with the [~~comprehensive expenditure plan~~]
36 long term strategic academic and fiscal improvement plan, in the event
37 the district plans to reduce budget appropriations for programs restored
38 or created under the [~~comprehensive expenditure plan or the strategic~~
39 ~~academic and fiscal improvement plan~~] long term strategic academic and
40 fiscal improvement plan as well as the sale of school buildings or other
41 real property and capital improvement contracts in excess of one hundred
42 thousand dollars (\$100,000), the district shall submit a plan to the
43 [~~commissioner~~] monitor or monitors for approval.

44 § 8. The commissioner may overrule any decision of the monitor or
45 monitors, except for collective bargaining agreements negotiated in
46 accordance with article 14 of the civil service law, if he or she deems
47 that such decision is not aligned with the long term strategic academic
48 and fiscal improvement plan or the school district's budget or is
49 contrary to state law or regulation. If the commissioner overrules a
50 decision of the monitor or monitors, the commissioner may direct the
51 board to take corrective action on such matter if it is necessary to
52 comply with state law, regulation or the long term strategic academic
53 and fiscal improvement plan. In the event there is disagreement between
54 the monitors, the commissioner may resolve such disagreements and direct
55 the monitors to take action as a result of such resolution.

1 § 9. The monitor or monitors may notify the commissioner and the board
2 in writing when he or she deems the district is violating an element of
3 the long term strategic academic and fiscal improvement plan in this
4 act. Within twenty days, the commissioner shall determine whether the
5 district is in violation of any of the elements of the plan highlighted
6 by the monitor or monitors and shall order the district to comply imme-
7 diately with the plan and remedy any such violation. The school district
8 shall suspend all actions related to the potential violation of the long
9 term strategic academic and fiscal improvement plan until the commis-
10 sioner issues a determination.

11 § 10. Nothing in this act shall be construed to abrogate the duties
12 and responsibilities of the school district consistent with applicable
13 state law and regulations.

14 § 11. This act shall take effect July 1, 2016 and shall expire and be
15 deemed repealed June 30, [2021, except that paragraph (b) of section
16 five of this act and section seven of this act shall expire and be
17 deemed repealed June 30, 2021] 2026.

18 § 3. Paragraph (b) of section 5 of chapter 89 of the laws of 2016
19 relating to supplementary funding for dedicated programs for public
20 school students in the East Ramapo central school district, as amended
21 by section 48 of part YY of chapter 59 of the laws of 2017, is amended
22 to read as follows:

23 (b) [~~In order to receive such funds, the school district in consulta-~~
24 ~~tion with] The board of education and the monitor or monitors shall
25 develop a long term strategic academic and fiscal improvement plan with-
26 in 6 months from the enactment of this act and shall annually revise
27 such plan by October first of each year thereafter. Such plan, includ-
28 ing such annual revisions thereto, shall be submitted to the commis-
29 sioner for approval and shall include a set of goals with appropriate bench-
30 marks and measurable objectives and identify strategies to address areas
31 where improvements are needed in the district, including but not limited
32 to its financial stability, academic opportunities and outcomes, educa-
33 tion of students with disabilities, education of English language lear-
34 ners, the educational welfare of all students and shall ensure compli-
35 ance with all applicable state and federal laws and regulations. This
36 improvement plan shall also include a comprehensive expenditure plan
37 that will describe how any funds appropriated to the district in addi-
38 tion to those appropriated pursuant to sections 3602 and 3602-e of the
39 education law including but not limited to the funds made available to
40 the district pursuant to this section will be spent in the applicable
41 school year. The comprehensive expenditure plan shall ensure that funds
42 supplement, not supplant, expenditures from local, state and federal
43 funds for services provided to public school students, except that such
44 funds may be used to continue services funded pursuant to this act in
45 prior years. [~~Such expenditure plan shall be developed and annually~~
46 ~~revised in consultation with the monitor or monitors appointed by the~~
47 ~~commissioner.] The board of education [of the East Ramapo central school
48 district] and monitor or monitors must annually conduct a public hearing
49 on [~~the expenditure plan] long term strategic academic and fiscal~~
50 improvement plan and shall consider the input of the community before
51 adopting or revising such plan. Such [~~the expenditure plan] long term
52 strategic academic and fiscal improvement plan shall also be made
53 publicly available and shall be annually submitted along with comments
54 made by the community to the commissioner for approval once the plan is
55 finalized. Upon review of the [~~improvement plan and the expenditure~~
56 ~~plan] long term strategic academic and fiscal improvement plan, required~~~~~~~~

1 to be submitted pursuant to this subdivision or section seven of this
2 act, the commissioner shall approve or deny such plan in writing and, if
3 denied, shall include the reasons therefor. The [~~district in consulta-~~
4 ~~tion with the monitors~~] board of education and monitor or monitors may
5 resubmit such plan or plans with any needed modifications thereto.

6 § 4. This act shall take effect immediately; provided, however, that
7 the amendments to chapter 89 of the laws of 2016 made by sections one,
8 two and three of this act shall not affect the repeal of such chapter
9 and shall be deemed to be repealed therewith.