

# STATE OF NEW YORK

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7447--A

2021-2022 Regular Sessions

## IN ASSEMBLY

May 10, 2021

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Introduced by M. of A. SIMON, NIOU, EPSTEIN, DAVILA, GALLAGHER, BARNWELL, CARROLL, GLICK, GONZALEZ-ROJAS, GOTTFRIED, MITAYNES -- read once and referred to the Committee on Education -- recommitted to the Committee on Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to requiring class size reduction plans in city school districts in cities having a population of one million or more

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

1 Section 1. Paragraph e of subdivision 1 of section 211-d of the  
2 education law, as amended by section 1 of part A of chapter 56 of the  
3 laws of 2021, is amended to read as follows:  
4 e. Notwithstanding paragraphs a and b of this subdivision, a school  
5 district that submitted a contract for excellence for the two thousand  
6 eight--two thousand nine school year shall submit a contract for excel-  
7 lence for the two thousand nine--two thousand ten school year in  
8 conformity with the requirements of subparagraph (vi) of paragraph a of  
9 subdivision two of this section unless all schools in the district are  
10 identified as in good standing and provided further that, a school  
11 district that submitted a contract for excellence for the two thousand  
12 nine--two thousand ten school year, unless all schools in the district  
13 are identified as in good standing, shall submit a contract for excel-  
14 lence for the two thousand eleven--two thousand twelve school year which  
15 shall, notwithstanding the requirements of subparagraph (vi) of para-  
16 graph a of subdivision two of this section, provide for the expenditure  
17 of an amount which shall be not less than the product of the amount  
18 approved by the commissioner in the contract for excellence for the two  
19 thousand nine--two thousand ten school year, multiplied by the  
20 district's gap elimination adjustment percentage and provided further

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

LBD10991-09-2

1 that, a school district that submitted a contract for excellence for the  
2 two thousand eleven--two thousand twelve school year, unless all schools  
3 in the district are identified as in good standing, shall submit a  
4 contract for excellence for the two thousand twelve--two thousand thir-  
5 teen school year which shall, notwithstanding the requirements of  
6 subparagraph (vi) of paragraph a of subdivision two of this section,  
7 provide for the expenditure of an amount which shall be not less than  
8 the amount approved by the commissioner in the contract for excellence  
9 for the two thousand eleven--two thousand twelve school year and  
10 provided further that, a school district that submitted a contract for  
11 excellence for the two thousand twelve--two thousand thirteen school  
12 year, unless all schools in the district are identified as in good  
13 standing, shall submit a contract for excellence for the two thousand  
14 thirteen--two thousand fourteen school year which shall, notwithstanding  
15 the requirements of subparagraph (vi) of paragraph a of subdivision two  
16 of this section, provide for the expenditure of an amount which shall be  
17 not less than the amount approved by the commissioner in the contract  
18 for excellence for the two thousand twelve--two thousand thirteen school  
19 year and provided further that, a school district that submitted a  
20 contract for excellence for the two thousand thirteen--two thousand  
21 fourteen school year, unless all schools in the district are identified  
22 as in good standing, shall submit a contract for excellence for the two  
23 thousand fourteen--two thousand fifteen school year which shall,  
24 notwithstanding the requirements of subparagraph (vi) of paragraph a of  
25 subdivision two of this section, provide for the expenditure of an  
26 amount which shall be not less than the amount approved by the commis-  
27 sioner in the contract for excellence for the two thousand thirteen--two  
28 thousand fourteen school year; and provided further that, a school  
29 district that submitted a contract for excellence for the two thousand  
30 fourteen--two thousand fifteen school year, unless all schools in the  
31 district are identified as in good standing, shall submit a contract for  
32 excellence for the two thousand fifteen--two thousand sixteen school  
33 year which shall, notwithstanding the requirements of subparagraph (vi)  
34 of paragraph a of subdivision two of this section, provide for the  
35 expenditure of an amount which shall be not less than the amount  
36 approved by the commissioner in the contract for excellence for the two  
37 thousand fourteen--two thousand fifteen school year; and provided  
38 further that a school district that submitted a contract for excellence  
39 for the two thousand fifteen--two thousand sixteen school year, unless  
40 all schools in the district are identified as in good standing, shall  
41 submit a contract for excellence for the two thousand sixteen--two thou-  
42 sand seventeen school year which shall, notwithstanding the requirements  
43 of subparagraph (vi) of paragraph a of subdivision two of this section,  
44 provide for the expenditure of an amount which shall be not less than  
45 the amount approved by the commissioner in the contract for excellence  
46 for the two thousand fifteen--two thousand sixteen school year; and  
47 provided further that, a school district that submitted a contract for  
48 excellence for the two thousand sixteen--two thousand seventeen school  
49 year, unless all schools in the district are identified as in good  
50 standing, shall submit a contract for excellence for the two thousand  
51 seventeen--two thousand eighteen school year which shall, notwithstand-  
52 ing the requirements of subparagraph (vi) of paragraph a of subdivision  
53 two of this section, provide for the expenditure of an amount which  
54 shall be not less than the amount approved by the commissioner in the  
55 contract for excellence for the two thousand sixteen--two thousand  
56 seventeen school year; and provided further that a school district that

1 submitted a contract for excellence for the two thousand seventeen--two  
2 thousand eighteen school year, unless all schools in the district are  
3 identified as in good standing, shall submit a contract for excellence  
4 for the two thousand eighteen--two thousand nineteen school year which  
5 shall, notwithstanding the requirements of subparagraph (vi) of para-  
6 graph a of subdivision two of this section, provide for the expenditure  
7 of an amount which shall be not less than the amount approved by the  
8 commissioner in the contract for excellence for the two thousand seven-  
9 teen--two thousand eighteen school year; and provided further that, a  
10 school district that submitted a contract for excellence for the two  
11 thousand eighteen--two thousand nineteen school year, unless all schools  
12 in the district are identified as in good standing, shall submit a  
13 contract for excellence for the two thousand nineteen--two thousand  
14 twenty school year which shall, notwithstanding the requirements of  
15 subparagraph (vi) of paragraph a of subdivision two of this section,  
16 provide for the expenditure of an amount which shall be not less than  
17 the amount approved by the commissioner in the contract for excellence  
18 for the two thousand eighteen--two thousand nineteen school year; and  
19 provided further that, a school district that submitted a contract for  
20 excellence for the two thousand nineteen--two thousand twenty school  
21 year, unless all schools in the district are identified as in good  
22 standing, shall submit a contract for excellence for the two thousand  
23 twenty--two thousand twenty-one school year which shall, notwithstanding  
24 the requirements of subparagraph (vi) of paragraph a of subdivision two  
25 of this section, provide for the expenditure of an amount which shall be  
26 not less than the amount approved by the commissioner in the contract  
27 for excellence for the two thousand nineteen--two thousand twenty school  
28 year; and provided further that, a school district that submitted a  
29 contract for excellence for the two thousand twenty--two thousand twen-  
30 ty-one school year, unless all schools in the district are identified as  
31 in good standing, shall submit a contract for excellence for the two  
32 thousand twenty-one--two thousand twenty-two school year which shall,  
33 notwithstanding the requirements of subparagraph (vi) of paragraph a of  
34 subdivision two of this section, provide for the expenditure of an  
35 amount which shall be not less than the amount approved by the commis-  
36 sioner in the contract for excellence for the two thousand twenty--two  
37 thousand twenty-one school year; and provided further that, a school  
38 district that submitted a contract for excellence for the two thousand  
39 twenty-one--two thousand twenty-two school year, unless all schools in  
40 the district are identified as in good standing, shall submit a contract  
41 for excellence for the two thousand twenty-two--two thousand twenty-  
42 three school year which shall, for a city having a population of one  
43 million or more, notwithstanding the requirements of subparagraph (vi)  
44 of paragraph a of subdivision two of this section, provide for the  
45 expenditure as set forth in subparagraph (v) of paragraph a of subdivi-  
46 sion two of this section. For purposes of this paragraph, the "gap elim-  
47 ination adjustment percentage" shall be calculated as the sum of one  
48 minus the quotient of the sum of the school district's net gap elimi-  
49 nation adjustment for two thousand ten--two thousand eleven computed  
50 pursuant to chapter fifty-three of the laws of two thousand ten, making  
51 appropriations for the support of government, plus the school district's  
52 gap elimination adjustment for two thousand eleven--two thousand twelve  
53 as computed pursuant to chapter fifty-three of the laws of two thousand  
54 eleven, making appropriations for the support of the local assistance  
55 budget, including support for general support for public schools,  
56 divided by the total aid for adjustment computed pursuant to chapter

1 fifty-three of the laws of two thousand eleven, making appropriations  
2 for the local assistance budget, including support for general support  
3 for public schools. Provided, further, that such amount shall be  
4 expended to support and maintain allowable programs and activities  
5 approved in the two thousand nine--two thousand ten school year or to  
6 support new or expanded allowable programs and activities in the current  
7 year.

8 § 2. Subparagraph (v) of paragraph a and subparagraphs (ii) and (iii)  
9 of paragraph b of subdivision 2 of section 211-d of the education law,  
10 subparagraph (v) of paragraph a and subparagraph (ii) of paragraph b as  
11 amended by section 2 of part A of chapter 57 of the laws of 2008 and  
12 subparagraph (iii) as added by section 3-a of part A of chapter 57 of  
13 the laws of 2009, are amended to read as follows:

14 (v) In a city school district in a city having a population of one  
15 million or more inhabitants, each contract for excellence shall describe  
16 how the amounts apportioned to the school district in the current year  
17 as total foundation aid and academic achievement grants, in excess of  
18 one hundred three percent of the district's foundation aid base~~[, as~~  
19 ~~adjusted for additional amounts payable as charter school basic tuition~~  
20 ~~over such amount payable in the base year]~~, shall be used to support new  
21 programs and new activities or expand the use of programs and activities  
22 demonstrated to improve student achievement; provided however, up to  
23 thirty million dollars or twenty-five percent of additional funding  
24 received in the current year, whichever is less, may be used to maintain  
25 investments in the programs and activities listed in paragraph a of  
26 subdivision three of this section.

27 (ii) In a city school district in a city having a population of one  
28 million or more inhabitants such contract shall also include a plan to  
29 reduce citywide average class sizes and by district and school, as  
30 defined by the commissioner, ~~[within five years]~~ beginning September two  
31 thousand twenty-two and to be achieved by September two thousand twen-  
32 ty-seven for the following grade ranges: (A) pre-kindergarten-third  
33 grade; (B) fourth-eighth grade; and (C) high school, and shall thereaft-  
34 er maintain the average class sizes achieved by such date. For core  
35 academic classes, class sizes shall be capped after five years at no  
36 more than twenty students per class in grades kindergarten through  
37 third, twenty-three students per class in grades fourth through eighth,  
38 and twenty-five students in high school. Such plan shall include annual  
39 class size reduction for low performing and overcrowded schools and also  
40 include the methods to be used to achieve such class sizes, such as the  
41 creation or construction of more classrooms and school buildings, the  
42 placement of more than one teacher in a classroom or methods to other-  
43 wise reduce the student to teacher ratio~~[, provided, however, that~~  
44 ~~notwithstanding any law, rule or regulation to the contrary, the sole~~  
45 ~~and exclusive remedy for a violation of the requirements of this para-~~  
46 ~~graph shall be pursuant to a petition to the commissioner under subdivi-~~  
47 ~~sion seven of section three hundred ten of this title, and the decision~~  
48 ~~of the commissioner on such petition shall be final and unreviewable]~~  
49 but only as a temporary measure until more classrooms are made available  
50 in conformance with the plan.

51 (iii) A city school district in a city having a population of one  
52 million or more inhabitants shall prepare ~~[a report]~~ annual reports, on  
53 the dates set forth below, to the commissioner on the status of the  
54 implementation of its plan to reduce average class sizes pursuant to  
55 subparagraph (ii) of this paragraph. Such report shall ~~[identify]~~ be  
56 publicly released and posted on the city school district's websites,

1 identifying all schools that received funds targeted at class size  
2 reduction efforts pursuant to the requirements of this section and  
3 ~~[provide]~~ providing the following information regarding such schools:

4 (A) the amount of contract for excellence funds received by each  
5 school and the school year in which it received such funds;

6 (B) a detailed description of how contract for excellence funds  
7 contributed to achieving class size reduction in each school that  
8 received such funding including specific information on the number of  
9 classrooms in each school that existed prior to receiving contract for  
10 excellence funds and the number of new ~~[classrooms]~~ classes that were  
11 created in each school for each year such funding was received, the  
12 number of classroom teachers that existed in each school prior to  
13 receiving contract for excellence funds and the number of new classroom  
14 teachers in each school for each year such funding was received, the  
15 student to teacher ratio in each school prior to receiving contract for  
16 excellence funds and the student to teacher ratio in each school for  
17 each year such funding was received;

18 (C) the actual student enrollment for the two thousand ~~[six]~~ twenty-  
19 three--two thousand ~~[seven]~~ twenty-four school year, the actual student  
20 enrollment for the two thousand ~~[seven]~~ twenty-four--two thousand  
21 ~~[eight]~~ twenty-five school year, the actual student enrollment for the  
22 two thousand ~~[eight]~~ twenty-five--two thousand ~~[nine]~~ twenty-six school  
23 year, and the projected student enrollment for the two thousand ~~[nine]~~  
24 twenty-six--two thousand ~~[ten]~~ twenty-seven school year for each school  
25 by grade level;

26 (D) the actual average class sizes for the two thousand ~~[six]~~ twenty-  
27 three--two thousand ~~[seven]~~ twenty-four school year, the actual average  
28 class sizes for the two thousand ~~[seven]~~ twenty-four--two thousand  
29 ~~[eight]~~ twenty-five school year, the actual average class sizes for the  
30 two thousand ~~[eight]~~ twenty-five--two thousand ~~[nine]~~ twenty-six school  
31 year, and the projected average class sizes for the two thousand ~~[nine]~~  
32 twenty-six--two thousand ~~[ten]~~ twenty-seven school year for each school  
33 by grade level and for each year thereafter until the class size goals  
34 are achieved; [and]

35 (E) the annual capital plan for school construction and leasing to  
36 show how many classrooms will be added in each year and in which schools  
37 and subdistricts to achieve the class size reduction goals;

38 (F) how the school capacity and utilization formula is aligned to the  
39 class size goals in the city school district's class size reduction  
40 plan; and

41 (G) the schools that have made insufficient progress toward achieving  
42 the class size reduction ~~[goals outlined]~~ set forth in the approved  
43 ~~[five-year]~~ class size reduction plan pursuant to subparagraph (ii) of  
44 this paragraph and a detailed description of the actions that will be  
45 taken to reduce class sizes in such schools.

46 ~~[Such report shall be submitted to the commissioner on or before~~  
47 ~~November seventeenth, two thousand nine and shall be made available to~~  
48 ~~the public by such date]~~ The first report shall be submitted to the  
49 commissioner on or before November fifteenth of each year and made  
50 available to the public by such date on the district's website. If the  
51 department determines that the November fifteenth report does not demon-  
52 strate sufficient decreases in class size, the department shall issue a  
53 letter making that determination public on its website and the city  
54 school district shall immediately submit a plan for corrective action.  
55 The district's revised plan shall also be made available to the public  
56 on the district's website upon submission to the department. The final

corrective action plan shall be made available to the public upon approval by the department. The final report shall also be certified by the state or city comptroller that the city school district's capital and education funding plans will provide sufficient space and staffing for the reduction in class size set forth in this paragraph and if not, what measures and/or funding should be added to the plan to achieve such goals.

§ 3. Paragraph d of subdivision 4 and subdivision 5 of section 211-d of the education law, as added by section 12 of part A of chapter 57 of the laws of 2007, are amended to read as follows:

~~d. [For the two thousand seven two thousand eight school year, school districts shall solicit public comment on their contracts for excellence]~~ The public process set forth in paragraphs a through c of this subdivision shall commence no later than thirty days after a state budget is enacted each year and be completed no later than thirty days after its commencement. Notice of the public process shall be provided fifteen days prior to the commencement of the first public hearing and shall be posted on the district's website as well as transmitted via email to school administrators, parent and teacher organizations, and elected officials. The proposed plan shall be submitted for state approval within two weeks following the completion of the public process. The proposed plan shall be posted on the district's website within twenty-four hours of its submission along with a summary of the public comments and the district's explanation and reasons for which public comments were incorporated into the proposed plan and which public comments were not incorporated into the proposed plan.

5. a. Each contract for excellence shall be subject to approval by the commissioner [and his or her]. No contract for excellence shall be approved and no contract for excellence funds awarded until the public process set forth in subdivision four of this section has been completed. Upon approval, the plan shall be made public and posted on the department's website within forty-eight hours, along with any revisions to such plan or corrective action plan required by the state. No contract for excellence funds shall be released to the school district until said contract is approved by the commissioner. Each contract for excellence is also subject to the commissioner's certification that the expenditure of additional aid or grant amounts is in accordance with subdivision two of this section.

b. In a city school district of one million or more inhabitants, upon approval of the contract for excellence, one-third of the contract for excellence funds shall be released to the school district. The remainder of the funds shall be released to the school district upon submission of the November fifteenth report described in subdivision two of this section, only if such report demonstrates sufficient reduction in class sizes. If such report does not demonstrate sufficient reduction in class sizes, the remainder of the funds shall be released upon submission by the school district of the corrective action plan described in subdivision two of this section. In the year following a year which required a corrective action plan pursuant to subdivision two of this section, no contract for excellence funds shall be provided by the state until and unless such corrective action plan has been fully implemented.

§ 4. This act shall take effect immediately and shall first apply to contracts for excellence for the 2022-2023 school year.