

STATE OF NEW YORK

9600

IN ASSEMBLY

March 24, 2022

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

AN ACT to amend the education law, in relation to annual professional
performance reviews and tenure

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

1 Section 1. Subparagraph ii of paragraph (a) of subdivision 1 of
2 section 3012 of the education law, as amended by chapter 112 of the laws
3 of 2021, is amended to read as follows:
4 ii. Teachers and all other members of the teaching staff of school
5 districts, including common school districts and/or school districts
6 employing fewer than eight teachers, other than city school districts,
7 who are appointed on or after July first, two thousand fifteen, shall be
8 appointed by the board of education, or the trustees of common school
9 districts, upon the recommendation of the superintendent of schools, for
10 a probationary period of four years, except that in the case of a teach-
11 er who has rendered satisfactory service as a regular substitute for a
12 period of two years and, if a classroom teacher, has received annual
13 professional performance review ratings in each of those years, or has
14 rendered satisfactory service as a seasonally licensed per session
15 teacher of swimming in day schools who has served in that capacity for a
16 period of two years and has been appointed to teach the same subject in
17 day schools, on an annual salary, the teacher shall be appointed for a
18 probationary period of two years; provided, however, that in the case of
19 a teacher who has been appointed on tenure in another school district
20 within the state, the school district where currently employed, or a
21 board of cooperative educational services, and who was not dismissed
22 from such district or board as a result of charges brought pursuant to
23 subdivision one of section three thousand twenty-a or section three
24 thousand twenty-b of this article, the teacher shall be appointed for a
25 probationary period of three years; provided that, in the case of a
26 classroom teacher, the teacher demonstrates that he or she received an
27 annual professional performance review rating pursuant to section three
28 thousand twelve-c or section three thousand twelve-d of this chapter in

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

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1 his or her final year of service in such other school district or board
2 of cooperative educational services. Provided further, however, that in
3 the case of a teacher who has been appointed for a probationary period
4 during the two thousand twenty--two thousand twenty-one, the two thou-
5 sand twenty one--two thousand twenty-two or the two thousand twenty-two-
6 -two thousand twenty-three school year and who has been appointed on
7 tenure in another school district within the state, the school district
8 where currently employed, board of cooperative educational services or
9 state school for the blind or deaf and who was not dismissed from such
10 district, board or state school for the blind or deaf as a result of
11 charges brought pursuant to subdivision one of section three thousand
12 twenty-a or section three thousand twenty-b of this article, such teach-
13 er shall be appointed for a probationary period of three years; provided
14 that, in the case of a classroom teacher, such teacher demonstrates that
15 he or she received an annual professional performance review rating
16 pursuant to section three thousand twelve-c or section three thousand
17 twelve-d of this article in the two thousand seventeen--two thousand
18 eighteen or two thousand eighteen--two thousand nineteen school year in
19 such other school district, board of cooperative educational services or
20 state school for the blind or deaf. The service of a person appointed to
21 any of such positions may be discontinued at any time during such proba-
22 tionary period, on the recommendation of the superintendent of schools,
23 by a majority vote of the board of education or the trustees of a common
24 school district.

25 § 2. Paragraph (b) of subdivision 2 of section 3012 of the education
26 law, as amended by chapter 147 of the laws of 2021, is amended to read
27 as follows:

28 (b) At the expiration of the probationary term of a person appointed
29 for such term on or after July first, two thousand fifteen, subject to
30 the conditions of this section, the superintendent of schools shall make
31 a written report to the board of education or the trustees of a common
32 school district recommending for appointment on tenure those persons who
33 have been found competent, efficient and satisfactory and, in the case
34 of a classroom teacher or building principal, who have received compos-
35 ite annual professional performance review ratings pursuant to section
36 three thousand twelve-c or section three thousand twelve-d of this arti-
37 cle, of either effective or highly effective in at least three of the
38 four preceding years, exclusive of any breaks in service; provided that
39 in the case of a classroom teacher or building principal appointed
40 during the two thousand seventeen--two thousand eighteen[, ~~two thousand~~
41 ~~eighteen two thousand nineteen or two thousand nineteen two thousand~~
42 ~~twenty~~] or two thousand twenty--two thousand twenty-one school year, who
43 have received composite annual professional performance review ratings
44 pursuant to section three thousand twelve-c or section three thousand
45 twelve-d of this article, of either effective or highly effective in at
46 least one of the four preceding years, exclusive of any breaks in
47 service, and did not receive an ineffective rating in the final year of
48 his or her probationary period, or during the most recent school year
49 where a rating was received, and would have been in the superintendent
50 of schools' discretion qualified for appointment on tenure based upon
51 performance, notwithstanding that his or her annual professional
52 performance review had not been completed and he or she had not received
53 an annual professional performance rating for the two thousand nine-
54 teen--two thousand twenty [~~and~~], two thousand twenty--two thousand twen-
55 ty-one or the two thousand twenty-one--two thousand twenty-two school
56 [~~years~~] year; provided that, in the case of a classroom teacher or

building principal appointed during the two thousand eighteen--two thousand nineteen or two thousand nineteen--two thousand twenty school year, who has not received composite annual professional performance review ratings pursuant to section three thousand twelve-c or section three thousand twelve-d of this article for three consecutive years, no ratings shall be required for the superintendent of schools to recommend for appointment on tenure such teacher or building principal if the teacher or principal would have been, in the superintendent of schools' discretion, qualified for appointment on tenure based upon performance, notwithstanding that his or her annual professional performance review had not been completed and he or she had not received an annual professional performance review rating for the two thousand nineteen--two thousand twenty, two thousand twenty--two thousand twenty-one and two thousand twenty-one--two thousand twenty-two school years; provided that in the case of a classroom teacher or building principal appointed during the two thousand ~~twenty~~ twenty-one--two thousand ~~twenty-one~~ twenty-two school year who have received composite annual professional performance review ratings pursuant to section three thousand twelve-c or section three thousand twelve-d of this article of either effective or highly effective in at least two of the four preceding years, exclusive of any breaks in service, and did not receive an ineffective rating in the final year of his or her probationary period, or during the most recent school year where a rating was received, and would have been in the superintendent of schools' discretion qualified for appointment on tenure based upon performance, notwithstanding that his or her annual professional performance review had not been completed and he or she had not received an annual professional performance rating for the two thousand twenty--two thousand twenty-one or two thousand twenty-one--two thousand twenty-two school year; provided further that, notwithstanding any other provision of this section to the contrary, when a teacher or principal receives an effective or highly effective rating in each year of his or her probationary service except he or she receives an ineffective rating in the final year of his or her probationary period, such teacher shall not be eligible for tenure but the board of education, in its discretion, may extend the teacher's probationary period for an additional year; provided, however, that if such teacher or principal successfully appealed such ineffective rating, such teacher or principal shall immediately be eligible for tenure if the rating resulting from the appeal established that such individual has been effective or highly effective in at least three of the preceding four years and was not ineffective in the final year. At the expiration of the probationary period, the classroom teacher or building principal shall remain in probationary status until the end of the school year in which such teacher or principal has received such ratings of effective or highly effective for at least three of the four preceding school years, exclusive of any breaks in service, and subject to the terms hereof, during which time the trustees or board of education shall consider whether to grant tenure for those classroom teachers or building principals who otherwise have been found competent, efficient and satisfactory. Provided, however, that the trustees or board of education may grant tenure contingent upon a classroom teacher's or building principal's receipt of a minimum rating in the final year of the probationary period, pursuant to the requirements of this section, and if such contingency is not met after all appeals have been exhausted, the grant of tenure shall be void and unenforceable and the teacher's or principal's probationary period may be extended in accordance with this subdivision. Such

1 persons who have been recommended for tenure and all others employed in
2 the teaching service of the schools of such school district who have
3 served the full probationary period as extended pursuant to this subdi-
4 vision shall hold their respective positions during good behavior and
5 efficient and competent service, and shall not be removable except for
6 cause after a hearing as provided by section three thousand twenty-a or
7 section three thousand twenty-b of this article. Failure to maintain
8 certification as required by this chapter and the regulations of the
9 commissioner shall constitute cause for removal.

10 § 3. Subdivision 17 of section 3012-d of the education law, as amended
11 by chapter 147 of the laws of 2021, is amended to read as follows:

12 17. Notwithstanding any other provision of this section, for the two
13 thousand twenty--two thousand twenty-one [~~school year~~] and the two thou-
14 sand twenty-one--two thousand twenty-two school years, no school
15 district or board of cooperative educational services shall be required
16 to complete an annual teacher and principal evaluation required by this
17 section for any classroom teacher or building principal and state fund-
18 ing shall not be withheld from any school district for not complying
19 with the requirements of this section.

20 § 4. Paragraph (b) of subdivision 1 of section 3014 of the education
21 law, as amended by chapter 147 of the laws of 2021, is amended to read
22 as follows:

23 (b) Administrative assistants, supervisors, teachers and all other
24 members of the teaching and supervising staff of the board of cooper-
25 ative educational services appointed on or after July first, two thou-
26 sand fifteen, shall be appointed by a majority vote of the board of
27 cooperative educational services upon the recommendation of the district
28 superintendent of schools for a probationary period of not to exceed
29 four years; provided, however, that in the case of a teacher who has
30 been appointed on tenure in a school district within the state, the
31 board of cooperative educational services where currently employed, or
32 another board of cooperative educational services, and who was not
33 dismissed from such district or board as a result of charges brought
34 pursuant to section three thousand twenty-a or section three thousand
35 twenty-b of this article, the teacher shall be appointed for a proba-
36 tionary period of three years; provided that, in the case of a classroom
37 teacher, the teacher demonstrates that he or she received a composite
38 annual professional performance review rating pursuant to section three
39 thousand twelve-c or three thousand twelve-d of this article of either
40 effective or highly effective in his or her final year of service in
41 such other school district or board of cooperative educational services;
42 and provided further that in the case of a principal, administrator,
43 supervisor, or other member of the supervising staff who has been
44 appointed on tenure pursuant to this chapter as an administrator within
45 an authorized administrative tenure area in another school district
46 within the state, the school district where currently employed, or a
47 board of cooperative educational services, and who was not dismissed
48 from such district or board as a result of charges brought pursuant to
49 subdivision one of section three thousand twenty-a or section three
50 thousand twenty-b of this article, the principal, administrator, super-
51 visor, or other member of the supervising staff shall be appointed for a
52 probationary period of three years. Provided further, however, that in
53 the case of a classroom teacher who has been appointed for a probation-
54 ary period during the two thousand twenty--two thousand twenty-one, the
55 two thousand twenty-one--two thousand twenty-two or the two thousand
56 twenty-two--two thousand twenty-three school year and who has been

1 appointed on tenure in a school district within the state, state school
2 for the blind or deaf, the board of cooperative educational services
3 where currently employed, or another board of cooperative educational
4 services, and who was not dismissed from such district, board or state
5 school for the blind or deaf as a result of charges brought pursuant to
6 section three thousand twenty-a or section three thousand twenty-b of
7 this article, such teacher shall be appointed for a probationary period
8 of three years; provided that, in the case of a classroom teacher, such
9 teacher demonstrates that he or she received an annual professional
10 performance review rating pursuant to section three thousand twelve-c or
11 section three thousand twelve-d of this article of either effective or
12 highly effective in the two thousand seventeen--two thousand eighteen or
13 two thousand eighteen--two thousand nineteen school year in such other
14 school district, state school for the blind or deaf or board of cooper-
15 ative educational services. Services of a person so appointed to any
16 such positions to which this paragraph applies may be discontinued at
17 any time during the probationary period, upon the recommendation of the
18 district superintendent, by a majority vote of the board of cooperative
19 educational services.

20 § 5. Paragraph (b) of subdivision 2 of section 3014 of the education
21 law, as amended by chapter 147 of the laws of 2021, is amended to read
22 as follows:

23 (b) On or before the expiration of the probationary term of a person
24 appointed for such term on or after July first, two thousand fifteen,
25 the district superintendent of schools shall make a written report to
26 the board of cooperative educational services recommending for appoint-
27 ment on tenure persons who have been found competent, efficient and
28 satisfactory and, in the case of a classroom teacher or building princi-
29 pal, who have received composite annual professional performance review
30 ratings pursuant to section three thousand twelve-c or section three
31 thousand twelve-d of this article, of either effective or highly effec-
32 tive in at least three of the four preceding years, exclusive of any
33 breaks in service; provided that, in the case of a classroom teacher or
34 building principal appointed during the two thousand seventeen--two
35 thousand eighteen[~~, two thousand eighteen--two thousand nineteen or two~~
36 ~~thousand nineteen--two thousand twenty~~] or two thousand twenty--two
37 thousand twenty-one school year who have received composite annual
38 professional performance review ratings pursuant to section three thou-
39 sand twelve-c or section three thousand twelve-d of this article of
40 either effective or highly effective in at least one of the four preced-
41 ing years, exclusive of any breaks in service, and did not receive an
42 ineffective rating in the final year of his or her probationary period
43 or in the most recent school year where a rating was received, and would
44 have been in the district superintendent of schools' discretion quali-
45 fied for appointment on tenure based upon performance, notwithstanding
46 that his or her annual professional performance review had not been
47 completed and he or she had not received an annual professional perform-
48 ance rating for the two thousand nineteen--two thousand twenty [~~and~~],
49 two thousand twenty--two thousand twenty-one or the two thousand twen-
50 ty-one--two thousand twenty-two school [~~years~~] year; provided that, in
51 the case of a classroom teacher or building principal appointed during
52 the two thousand eighteen--two thousand nineteen or two thousand nine-
53 teen--two thousand twenty school year, who has not received composite
54 annual professional performance review ratings pursuant to section three
55 thousand twelve-c or section three thousand twelve-d of this article for
56 three consecutive years, no ratings shall be required for the district

1 superintendent of schools to recommend for appointment on tenure such
2 teacher or building principal if the teacher or principal would have
3 been, in the district superintendent of schools' discretion, qualified
4 for appointment on tenure based upon performance, notwithstanding that
5 his or her annual professional performance review had not been completed
6 and he or she had not received an annual professional performance review
7 rating for the two thousand nineteen--two thousand twenty, two thousand
8 twenty--two thousand twenty-one and two thousand twenty-one--two thou-
9 sand twenty-two school years; provided that in the case of a classroom
10 teacher or building principal appointed during the two thousand [~~twenty~~]
11 ~~twenty-one~~--two thousand [~~twenty-one~~] twenty-two school year who have
12 received composite annual professional performance review ratings pursu-
13 ant to section three thousand twelve-c or section three thousand
14 twelve-d of this article of either effective or highly effective in at
15 least two of the four preceding years, exclusive of any breaks in
16 service, and did not receive an ineffective rating in the final year of
17 his or her probationary period, or during the most recent school year
18 where a rating was received, and would have been in the district super-
19 intendent of schools' discretion qualified for appointment on tenure
20 based upon performance, notwithstanding that his or her annual profes-
21 sional performance review had not been completed and he or she had not
22 received an annual professional performance rating for the two thousand
23 twenty--two thousand twenty-one or two thousand twenty-one--two thousand
24 twenty-two school year; provided further that, notwithstanding any other
25 provision of this section to the contrary, when a teacher or principal
26 receives an effective or highly effective rating in each year of his or
27 her probationary service except he or she receives an ineffective rating
28 in the final year of his or her probationary period, such teacher shall
29 not be eligible for tenure but the board of education in its discretion,
30 may extend the teacher's probationary period for an additional year;
31 provided, however that if such teacher or principal successfully
32 appealed such ineffective rating, such teacher or principal shall imme-
33 diately be eligible for tenure if the rating resulting from the appeal
34 established that such individual has been effective or highly effective
35 in at least three of the preceding four years and was not ineffective in
36 the final year. At the expiration of the probationary period, the class-
37 room teacher or building principal shall remain in probationary status
38 until the end of the school year in which such teacher or principal has
39 received such ratings of effective or highly effective for at least
40 three of the four preceding school years, exclusive of any breaks in
41 service, during which time a board of cooperative educational services
42 shall consider whether to grant tenure for those classroom teachers or
43 building principals who otherwise have been found competent, efficient
44 and satisfactory. Provided, however, that the board of cooperative
45 educational services may grant tenure contingent upon a classroom teach-
46 er's or building principal's receipt of a minimum rating in the final
47 year of the probationary period, pursuant to the requirements of this
48 section, and if such contingency is not met after all appeals have been
49 exhausted, the grant of tenure shall be void and unenforceable and the
50 teacher's or principal's probationary period may be extended in accord-
51 ance with this subdivision. Such persons shall hold their respective
52 positions during good behavior and competent and efficient service and
53 shall not be removed except for any of the following causes, after a
54 hearing, as provided by section three thousand twenty-a or section three
55 thousand twenty-b of this article: (i) Insubordination, immoral charac-
56 ter or conduct unbecoming a teacher; (ii) Inefficiency, incompetency, or

neglect of duty; (iii) Failure to maintain certification as required by this chapter and by the regulations of the commissioner. Each person who is not so recommended for appointment on tenure shall be so notified in writing by the district superintendent not later than sixty days immediately preceding the expiration of his or her probationary period.

§ 6. Subparagraph ii of paragraph (a) of subdivision 1 of section 2509 of the education law, as amended by chapter 112 of the laws of 2021, is amended to read as follows:

ii. Notwithstanding any other provision of law or regulation to the contrary, teachers and all other members of the teaching staff appointed on or after July first, two thousand fifteen and authorized by section twenty-five hundred three of this article, shall be appointed by the board of education, upon the recommendation of the superintendent of schools, for a probationary period of four years, except that in the case of a teacher who has rendered satisfactory service as a regular substitute for a period of two years and, if a classroom teacher, has received composite annual professional performance review ratings in each of those years, or has rendered satisfactory service as a seasonally licensed per session teacher of swimming in day schools who has served in that capacity for a period of two years and has been appointed to teach the same subject in day schools on an annual salary, the teacher shall be appointed for a probationary period of two years; provided, however, that in the case of a teacher who has been appointed on tenure in another school district within the state, the school district where currently employed, or a board of cooperative educational services, and who was not dismissed from such district or board as a result of charges brought pursuant to subdivision one of section three thousand twenty-a or section three thousand twenty-b of this chapter, the teacher shall be appointed for a probationary period of three years; provided that the teacher demonstrates that he or she received an annual professional performance review rating pursuant to section three thousand twelve-c or section three thousand twelve-d of this chapter in his or her final year of service in such other school district or board of cooperative educational services. Provided further, however, that in the case of a teacher who has been appointed for a probationary period during the two thousand twenty--two thousand twenty-one, the two thousand twenty-one--two thousand twenty-two or the two thousand twenty-two--two thousand twenty-three school year and who has been appointed on tenure in another school district within the state, the school district where currently employed, board of cooperative educational services or state school for the blind or deaf and who was not dismissed from such district, board or state school for the blind or deaf as a result of charges brought pursuant to subdivision one of section three thousand twenty-a or section three thousand twenty-b of this chapter, such teacher shall be appointed for a probationary period of three years; provided that, in the case of a classroom teacher, such teacher demonstrates that he or she received an annual professional performance review rating pursuant to section three thousand twelve-c or section three thousand twelve-d of this chapter in the two thousand seventeen--two thousand eighteen or two thousand eighteen--two thousand nineteen school year in such other school district, board of cooperative educational services or state school for the blind or deaf. The service of a person appointed to any of such positions may be discontinued at any time during such probationary period, on the recommendation of the superintendent of schools, by a majority vote of the board of education. Each person who is not to be recommended for appointment on tenure shall be so notified by the

1 superintendent of schools in writing not later than sixty days imme-
2 diately preceding the expiration of his/her probationary period.

3 § 7. Paragraph b of subdivision 2 of section 2509 of the education
4 law, as amended by chapter 147 of the laws of 2021, is amended to read
5 as follows:

6 b. For persons appointed on or after July first, two thousand fifteen,
7 at the expiration of the probationary term of any persons appointed for
8 such term, or within six months prior thereto, the superintendent of
9 schools shall make a written report to the board of education recommend-
10 ing for appointment on tenure those persons who have been found compe-
11 tent, efficient and satisfactory and in the case of a classroom teacher
12 or building principal, who have received annual professional performance
13 review ratings pursuant to section three thousand twelve-c or section
14 three thousand twelve-d of this chapter, of either effective or highly
15 effective in at least three of the four preceding years, exclusive of
16 any breaks in service; provided that, in the case of a classroom teacher
17 or building principal appointed during the two thousand seventeen--two
18 thousand eighteen[~~, two thousand eighteen--two thousand nineteen or two~~
19 ~~thousand nineteen--two thousand twenty~~] or the two thousand twenty--two
20 thousand twenty-one school year, who have received composite annual
21 professional performance review ratings pursuant to section three thou-
22 sand twelve-c or section three thousand twelve-d of this chapter, of
23 either effective or highly effective in at least one of the four preced-
24 ing years, exclusive of any breaks in service, and did not receive an
25 ineffective rating in the final year of his or her probationary period,
26 or during the most recent school year where a rating was received, and
27 would have been in the superintendent of schools' discretion qualified
28 for appointment on tenure based upon performance, notwithstanding that
29 his or her annual professional performance review had not been completed
30 and he or she had not received an annual professional performance rating
31 for the two thousand nineteen--two thousand twenty [~~and~~], two thousand
32 twenty--two thousand twenty-one or the two thousand twenty-one--two
33 thousand twenty-two school [~~years~~] year; provided that, in the case of a
34 classroom teacher or building principal appointed during the two thou-
35 sand eighteen--two thousand nineteen or two thousand nineteen--two thou-
36 sand twenty school year, who has not received composite annual profes-
37 sional performance review ratings pursuant to section three thousand
38 twelve-c or section three thousand twelve-d of this chapter, for three
39 consecutive years, no ratings shall be required for the superintendent
40 of schools to recommend for appointment on tenure such teacher or build-
41 ing principal if the teacher or principal would have been, in the super-
42 intendent of schools' discretion, qualified for appointment on tenure
43 based upon performance, notwithstanding that his or her annual profes-
44 sional performance review had not been completed and he or she had not
45 received an annual professional performance review rating for the two
46 thousand nineteen--two thousand twenty, two thousand twenty--two thou-
47 sand twenty-one and two thousand twenty-one--two thousand twenty-two
48 school years; provided that in the case of a classroom teacher or build-
49 ing principal appointed during the two thousand [~~twenty~~] twenty-one--two
50 thousand [~~twenty-one~~] twenty-two school year who have received composite
51 annual professional performance review ratings pursuant to section three
52 thousand twelve-c or section three thousand twelve-d of this chapter of
53 either effective or highly effective in at least two of the four preced-
54 ing years, exclusive of any breaks in service, and did not receive an
55 ineffective rating in the final year of his or her probationary period,
56 or during the most recent school year where a rating was received, and

1 would have been in the superintendent of schools' discretion qualified
2 for appointment on tenure based upon performance, notwithstanding that
3 his or her annual professional performance review had not been completed
4 and he or she had not received an annual professional performance rating
5 for the two thousand twenty--two thousand twenty-one or two thousand
6 twenty-one--two thousand twenty-two school year; provided further that,
7 notwithstanding any other provision of this section to the contrary,
8 when a teacher or principal receives an effective or highly effective
9 rating in each year of his or her probationary service except he or she
10 receives an ineffective rating in the final year of his or her proba-
11 tionary period, such teacher or principal shall not be eligible for
12 tenure but the board of education in its discretion, may extend the
13 teacher's probationary period for an additional year; provided, however,
14 that if such teacher or principal successfully appealed such ineffective
15 rating, such teacher or principal shall immediately be eligible for
16 tenure if the rating resulting from the appeal established that such
17 individual has been effective or highly effective in at least three of
18 the preceding four years and was not ineffective in the final year. By a
19 majority vote, the board of education may then appoint on tenure any or
20 all of the persons recommended by the superintendent of schools. At the
21 expiration of the probationary period, the classroom teacher or building
22 principal shall remain in probationary status until the end of the
23 school year in which such teacher or principal has received such ratings
24 of effective or highly effective for at least three of the four preced-
25 ing school years exclusive of any breaks in service and subject to the
26 terms hereof, during which time a board of education shall consider
27 whether to grant tenure for those classroom teachers or building princi-
28 pals who otherwise have been found competent, efficient and satisfac-
29 tory. Provided, however, that the board of education may grant tenure
30 contingent upon a classroom teacher's or building principal's receipt of
31 a minimum rating in the final year of the probationary period, pursuant
32 to the requirements of this section, and if such contingency is not met
33 after all appeals have been exhausted, the grant of tenure shall be void
34 and unenforceable and the teacher's or principal's probationary period
35 may be extended in accordance with this subdivision. Such persons who
36 have been recommended for tenure and all others employed in the teaching
37 service of the schools of such school district who have served the full
38 probationary period as extended pursuant to this subdivision shall hold
39 their respective positions during good behavior and efficient and compe-
40 tent service, and shall not be removable except for cause after a hear-
41 ing as provided by section three thousand twenty-a or section three
42 thousand twenty-b of this chapter. Failure to maintain certification as
43 required by this chapter and the regulations of the commissioner shall
44 constitute cause for removal.

45 § 8. Subparagraph ii of paragraph (a) of subdivision 1 of section 2573
46 of the education law, as amended by chapter 112 of the laws of 2021, is
47 amended to read as follows:

48 ii. Teachers and all other members of the teaching staff appointed on
49 or after July first, two thousand fifteen and authorized by section
50 twenty-five hundred fifty-four of this article, shall be appointed by
51 the board of education, upon the recommendation of the superintendent of
52 schools, for a probationary period of four years, except that in the
53 case of a teacher who has rendered satisfactory service as a regular
54 substitute for a period of two years and, if a classroom teacher, has
55 received annual professional performance review ratings in each of those
56 years, or has rendered satisfactory service as a seasonally licensed per

1 session teacher of swimming in day schools who has served in that capac-
2 ity for a period of two years and has been appointed to teach the same
3 subject in day schools on an annual salary, the teacher shall be
4 appointed for a probationary period of two years; provided, however,
5 that in the case of a teacher who has been appointed on tenure in another
6 school district within the state, the school district where currently
7 employed, or a board of cooperative educational services, and who was
8 not dismissed from such district or board as a result of charges brought
9 pursuant to subdivision one of section three thousand twenty-a or
10 section three thousand twenty-b of this chapter, the teacher shall be
11 appointed for a probationary period of three years; provided that, in
12 the case of a classroom teacher, the teacher demonstrates that he or she
13 received an annual professional performance review rating pursuant to
14 section three thousand twelve-c or section three thousand twelve-d of
15 this chapter in his or her final year of service in such other school
16 district or board of cooperative educational services; provided, however,
17 that, in the case of a classroom teacher who has been appointed for
18 a probationary period during the two thousand twenty--two thousand twenty-
19 one, the two thousand twenty-one--two thousand twenty-two or the two
20 thousand twenty-two--two thousand twenty-three school year and who has
21 been appointed on tenure in another school district within the state,
22 the school district where currently employed, board of cooperative
23 educational services or state school for the blind or deaf, and who was
24 not dismissed from such district, board or state school for the blind or
25 deaf as a result of charges brought pursuant to section three thousand
26 twenty-a or section three thousand twenty-b of this chapter, such teacher
27 shall be appointed for a probationary period of three years; provided
28 that, in the case of a classroom teacher, such teacher demonstrates that
29 he or she received an annual professional performance review rating
30 pursuant to section three thousand twelve-c or section three thousand
31 twelve-d of this chapter in the two thousand seventeen--two thousand
32 eighteen or two thousand eighteen--two thousand nineteen school year in
33 such other school district, board of cooperative educational services or
34 state school for the blind or deaf; provided further, however, that in
35 cities with a population of one million or more, a teacher appointed
36 under a newly created license, for teachers of reading and of the
37 emotionally handicapped, to a position which the teacher has held for at
38 least two years prior to such appointment while serving on tenure in
39 another license area who was not dismissed as a result of charges
40 brought pursuant to subdivision one of section three thousand twenty-a
41 or section three thousand twenty-b of this chapter, the teacher shall be
42 appointed for a probationary period of two years. The service of a
43 person appointed to any of such positions may be discontinued at any
44 time during such probationary period, on the recommendation of the
45 superintendent of schools, by a majority vote of the board of education.
46 Each person who is not to be recommended for appointment on tenure shall
47 be so notified by the superintendent of schools in writing not later
48 than sixty days immediately preceding the expiration of his or her
49 probationary period. In all city school districts subject to the
50 provisions of this article, failure to maintain certification as
51 required by this article and by the regulations of the commissioner
52 shall be cause for removal within the meaning of subdivision five of
53 this section.

54 § 9. Paragraph (b) of subdivision 5 of section 2573 of the education
55 law, as amended by chapter 147 of the laws of 2021, is amended to read
56 as follows:

(b) At the expiration of the probationary term of any persons appointed for such term on or after July first, two thousand fifteen, the superintendent of schools shall make a written report to the board of education recommending for permanent appointment those persons who have been found competent, efficient and satisfactory and, in the case of a classroom teacher or building principal, who have received composite annual professional performance review ratings pursuant to section three thousand twelve-c or section three thousand twelve-d of this chapter, of either effective or highly effective in at least three of the four preceding years, exclusive of any breaks in service; provided that, in the case of a classroom teacher or building principal appointed during the two thousand seventeen--two thousand eighteen[, ~~two thousand eighteen two thousand nineteen or two thousand nineteen two thousand twenty~~] or two thousand twenty--two thousand twenty-one school year, who have received composite annual professional performance review ratings pursuant to section three thousand twelve-c or section three thousand twelve-d of this chapter of either effective or highly effective in at least one of the four preceding years, exclusive of any breaks in service, and did not receive an ineffective rating in the final year of his or her probationary period or during the most recent school year where a rating was received, and would have been in the superintendent of schools' discretion qualified for appointment on tenure based upon performance, notwithstanding that his or her annual professional performance review had not been completed and he or she had not received an annual professional performance rating for the two thousand nineteen--two thousand twenty [~~and~~], two thousand twenty--two thousand twenty-one or the two thousand twenty-one--two thousand twenty-two school [~~years~~] year; provided that, in the case of a classroom teacher or building principal appointed during the two thousand eighteen--two thousand nineteen or two thousand nineteen--two thousand twenty school year, who has not received composite annual professional performance review ratings pursuant to section three thousand twelve-c or section three thousand twelve-d of this chapter for three consecutive years, no ratings shall be required for the superintendent of schools to recommend for appointment on tenure such teacher or building principal if the teacher or principal would have been, in the superintendent of schools' discretion, qualified for appointment on tenure based upon performance, notwithstanding that his or her annual professional performance review had not been completed and he or she had not received an annual professional performance review rating for the two thousand nineteen--two thousand twenty, two thousand twenty--two thousand twenty-one and two thousand twenty-one--two thousand twenty-two school years; provided that in the case of a classroom teacher or building principal appointed during the two thousand [~~twenty~~] twenty-one--two thousand [~~twenty-one~~] twenty-two school year who have received composite annual professional performance review ratings pursuant to section three thousand twelve-c or section three thousand twelve-d of this chapter of either effective or highly effective in at least two of the four preceding years, exclusive of any breaks in service, and did not receive an ineffective rating in the final year of his or her probationary period or during the most recent school year where a rating was received, and would have been in the superintendent of schools' discretion qualified for appointment on tenure based upon performance, notwithstanding that his or her annual professional performance review had not been completed and he or she had not received an annual professional performance rating for the two thousand twenty--two thousand twenty-one or two thousand twenty-one--two

1 ~~thousand twenty-two~~ school year; provided further that, notwithstanding
2 any other provision of this section to the contrary, when a teacher or
3 principal receives an effective and/or highly effective rating in each
4 year of his or her probationary service except he or she receives an
5 ineffective rating in the final year of his or her probationary period,
6 such teacher or principal shall not be eligible for tenure but the board
7 of education in its discretion, may extend the teacher's probationary
8 period for an additional year; provided, however, that if such teacher
9 or principal successfully appealed such ineffective rating, such teacher
10 or principal shall immediately be eligible for tenure if the rating
11 resulting from the appeal established that such individual has been
12 effective or highly effective in at least three of the preceding four
13 years. At the expiration of the probationary period, the classroom
14 teacher or building principal shall remain in probationary status until
15 the end of the school year in which such teacher or principal has
16 received such ratings of effective or highly effective for at least
17 three of the four preceding school years, exclusive of any breaks in
18 service and subject to the terms hereof, during which time a board of
19 education shall consider whether to grant tenure for those classroom
20 teachers or building principals who otherwise have been found competent,
21 efficient and satisfactory. Provided, however, that the board of educa-
22 tion may grant tenure contingent upon a classroom teacher's or building
23 principal's receipt of a minimum rating in the final year of the proba-
24 tionary period, pursuant to the requirements of this section, and if
25 such contingency is not met after all appeals have been exhausted, the
26 grant of tenure shall be void and unenforceable and the teacher's or
27 principal's probationary period may be extended in accordance with this
28 subdivision. Such persons who have been recommended for tenure and all
29 others employed in the teaching service of the schools of such school
30 district who have served the full probationary period as extended pursu-
31 ant to this subdivision shall hold their respective positions during
32 good behavior and efficient and competent service, and shall not be
33 removable except for cause after a hearing as provided by section three
34 thousand twenty-a or section three thousand twenty-b of this chapter.
35 Failure to maintain certification as required by this chapter and the
36 regulations of the commissioner shall constitute cause for removal.

37 § 10. Paragraph (b) of subdivision 6 of section 2573 of the education
38 law, as amended by chapter 147 of the laws of 2021, is amended to read
39 as follows:

40 (b) At the expiration of the probationary term of any persons
41 appointed for such term on or after July first, two thousand fifteen,
42 the superintendent of schools shall make a written report to the board
43 of education recommending for permanent appointment those persons who
44 have been found competent, efficient and satisfactory and, in the case
45 of a classroom teacher or building principal, who have received compos-
46 ite annual professional performance review ratings pursuant to section
47 three thousand twelve-c or section three thousand twelve-d of this chap-
48 ter, of either effective or highly effective in at least three of the
49 four preceding years, exclusive of any breaks in service; provided that,
50 in the case of a classroom teacher or building principal appointed
51 during the two thousand seventeen--two thousand eighteen[, ~~two thousand~~
52 ~~eighteen two thousand nineteen or two thousand nineteen two thousand~~
53 ~~twenty~~] or two thousand twenty--two thousand twenty-one school year, who
54 have received composite annual professional performance review ratings
55 pursuant to section three thousand twelve-c or section three thousand
56 twelve-d of this chapter of either effective or highly effective in at

1 least one of the four preceding years, exclusive of any breaks in
2 service, and did not receive an ineffective rating in the final year of
3 his or her probationary period or during the most recent school year
4 where a rating was received, and would have been in the superintendent
5 of schools' discretion qualified for appointment on tenure based upon
6 performance, notwithstanding that his or her annual professional
7 performance review had not been completed and he or she had not received
8 an annual professional performance rating for the two thousand nine-
9 teen--two thousand twenty [~~and~~], two thousand twenty--two thousand twen-
10 ty-one or the two thousand twenty-one--two thousand twenty-two school
11 [~~years~~] year; provided that, in the case of a classroom teacher or
12 building principal appointed during the two thousand eighteen--two thou-
13 sand nineteen or two thousand nineteen--two thousand twenty school year,
14 who has not received composite annual professional performance review
15 ratings pursuant to section three thousand twelve-c or section three
16 thousand twelve-d of this chapter for three consecutive years, no
17 ratings shall be required for the superintendent of schools to recommend
18 for appointment on tenure such teacher or building principal if the
19 teacher or principal would have been, in the superintendent of schools'
20 discretion, qualified for appointment on tenure based upon performance,
21 notwithstanding that his or her annual professional performance review
22 had not been completed and he or she had not received a composite annual
23 professional performance review rating for the two thousand nineteen--
24 two thousand twenty, two thousand twenty--two thousand twenty-one and
25 two thousand twenty-one--two thousand twenty-two school years; provided
26 that in the case of a classroom teacher or building principal appointed
27 during the two thousand [~~twenty~~] twenty-one--two thousand [~~twenty-one~~]
28 twenty-two school year who have received composite annual professional
29 performance review ratings pursuant to section three thousand twelve-c
30 or section three thousand twelve-d of this chapter of either effective
31 or highly effective in at least two of the four preceding years, exclu-
32 sive of any breaks in service, and did not receive an ineffective rating
33 in the final year of his or her probationary period or during the most
34 recent school year where a rating was received, and would have been in
35 the superintendent of schools' discretion qualified for appointment on
36 tenure based upon performance, notwithstanding that his or her annual
37 professional performance review had not been completed and he or she had
38 not received an annual professional performance rating for the two thou-
39 sand twenty--two thousand twenty-one or two thousand twenty-one--two
40 thousand twenty-two school year; provided further that, notwithstanding
41 any other provision of this section to the contrary, when a teacher
42 receives an effective and/or highly effective rating in each year of his
43 or her probationary service except he or she receives an ineffective
44 rating in the final year of his or her probationary period, such teacher
45 or principal shall not be eligible for tenure but the board of education
46 in its discretion, may extend the teacher's probationary period for an
47 additional year; provided, however, that if such teacher or principal
48 successfully appealed such ineffective rating, such teacher or principal
49 shall immediately be eligible for tenure if the rating resulting from
50 the appeal established that such individual has been effective or highly
51 effective in at least three of the preceding four years and was not
52 ineffective in the final year. At the expiration of the probationary
53 period, the classroom teacher or building principal shall remain in
54 probationary status until the end of the school year in which such
55 teacher or principal has received such ratings of effective or highly
56 effective for at least three of the four preceding school years, exclu-

sive of any breaks in service and subject to the terms hereof, during which time a board of education shall consider whether to grant tenure for those classroom teachers or building principals who otherwise have been found competent, efficient and satisfactory. Provided, however, that the board of education may grant tenure contingent upon a classroom teacher's or building principal's receipt of a minimum rating in the final year of the probationary period, pursuant to the requirements of this section, and if such contingency is not met after all appeals have been exhausted, the grant of tenure shall be void and unenforceable and the teacher's or principal's probationary period may be extended in accordance with this subdivision. Such persons who have been recommended for tenure and all others employed in the teaching service of the schools of such school district who have served the full probationary period as extended pursuant to this subdivision shall hold their respective positions during good behavior and efficient and competent service, and shall not be removable except for cause after a hearing as provided by section three thousand twenty-a or section three thousand twenty-b of this chapter. Failure to maintain certification as required by this chapter and the regulations of the commissioner shall constitute cause for removal.

§ 11. This act shall take effect immediately.