

# STATE OF NEW YORK

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6296--A

2021-2022 Regular Sessions

## IN SENATE

April 21, 2021

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Introduced by Sens. JACKSON, ADDABBO, BIAGGI, BRISPORT, COMRIE, GIANARIS, GOUNARDES, HOYLMAN, LANZA, MYRIE, PARKER, RAMOS, SALAZAR, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on New York City Education -- recommitted to the Committee on New York City Education in accordance with Senate Rule 6, sec. 8 -- 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

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

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

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

divided by the total aid for adjustment computed pursuant to chapter fifty-three of the laws of two thousand eleven, making appropriations for the local assistance budget, including support for general support for public schools. Provided, further, that such amount shall be expended to support and maintain allowable programs and activities approved in the two thousand nine--two thousand ten school year or to support new or expanded allowable programs and activities in the current year.

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

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

(ii) In a city school district in a city having a population of one million or more inhabitants such contract shall also include a plan to reduce citywide average class sizes and by district and school, as defined by the commissioner, ~~[within five years]~~ beginning September two thousand twenty-two and to be achieved by September two thousand twenty-seven for the following grade ranges: (A) pre-kindergarten-third grade; (B) fourth-eighth grade; and (C) high school, and shall thereafter maintain the average class sizes achieved by such date. For core academic classes, class sizes shall be capped after five years at no more than twenty students per class in grades kindergarten through third, twenty-three students per class in grades fourth through eighth, and twenty-five students in high school. Such plan shall include annual class size reduction for low performing and overcrowded schools and also include the methods to be used to achieve such class sizes, such as the creation or construction of more classrooms and school buildings, the placement of more than one teacher in a classroom or methods to otherwise reduce the student to teacher ratio~~[, provided, however, that notwithstanding any law, rule or regulation to the contrary, the sole and exclusive remedy for a violation of the requirements of this paragraph shall be pursuant to a petition to the commissioner under subdivision seven of section three hundred ten of this title, and the decision of the commissioner on such petition shall be final and unreviewable]~~ but only as a temporary measure until more classrooms are made available in conformance with the plan.

(iii) A city school district in a city having a population of one million or more inhabitants shall prepare ~~[a report]~~ annual reports, on the dates set forth below, to the commissioner on the status of the implementation of its plan to reduce average class sizes pursuant to subparagraph (ii) of this paragraph. Such report shall ~~[identify]~~ be

1 publicly released and posted on the city school district's websites,  
2 identifying all schools that received funds targeted at class size  
3 reduction efforts pursuant to the requirements of this section and  
4 ~~[provide]~~ providing the following information regarding such schools:

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

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

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

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

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

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

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

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

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

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

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

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

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

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