

STATE OF NEW YORK

8276

IN SENATE

February 8, 2022

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

sand nineteen or two thousand nineteen--two thousand twenty school year
who has not received an annual professional performance review rating
for three consecutive years, no composite ratings shall be required in
order for the district to appoint such teacher or building principal on
tenure if the teacher or principal would have been, in the superinten-
dent of schools' discretion, qualified for appointment on tenure based
upon performance, notwithstanding that such teacher or building princi-
pal's annual professional performance review had not been completed and
such teacher or principal had not received a composite annual profes-
sional 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, exclu-
sive 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 thou-
sand twenty--two thousand twenty-one 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 proba-
tionary period, such teacher shall not be eligible for tenure but the
board of education, in its discretion, may extend the teacher's proba-
tionary 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 build-
ing 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 prin-
cipal's receipt of a minimum rating in the final year of the probation-
ary 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 princi-
pal's probationary period may be extended in accordance with this subdi-
vision. 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

1 this subdivision shall hold their respective positions during good
2 behavior and efficient and competent service, and shall not be removable
3 except for cause after a hearing as provided by section three thousand
4 twenty-a or section three thousand twenty-b of this article. Failure to
5 maintain certification as required by this chapter and the regulations
6 of the commissioner shall constitute cause for removal.

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

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

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

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

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

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

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

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

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

b. For persons appointed on or after July first, two thousand fifteen, at the expiration of the probationary term of any persons appointed for such term, or within six months prior thereto, the superintendent of schools shall make a written report to the board of education recommending for appointment on tenure those persons who have been found competent, efficient and satisfactory and in the case of a classroom teacher or building principal, who have received 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 the 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 school years; 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 an annual professional performance review rating for three consecutive years, no composite ratings shall be required in order for the district to appoint such teacher or building principal on tenure if the teacher or principal would have been, in the superintendent of schools' discretion, qualified for appointment on tenure based upon performance, notwithstanding that such teacher or building principal's annual professional performance review had not been completed and such teacher or principal had not received a composite 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

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

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

43 ii. Teachers and all other members of the teaching staff appointed on
44 or after July first, two thousand fifteen and authorized by section
45 twenty-five hundred fifty-four of this article, shall be appointed by
46 the board of education, upon the recommendation of the superintendent of
47 schools, for a probationary period of four years, except that in the
48 case of a teacher who has rendered satisfactory service as a regular
49 substitute for a period of two years and, if a classroom teacher, has
50 received annual professional performance review ratings in each of those
51 years, or has rendered satisfactory service as a seasonally licensed per
52 session teacher of swimming in day schools who has served in that capacity
53 for a period of two years and has been appointed to teach the same
54 subject in day schools on an annual salary, the teacher shall be
55 appointed for a probationary period of two years; provided, however,
56 that in the case of a teacher who has been appointed on tenure in another

er 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, in the case of a classroom teacher, 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, however, that, in the case of a classroom teacher who has been appointed for a probationary period during the two thousand twenty--two thousand twenty-one school year, the two thousand twenty-one--two thousand twenty-two school year 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 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; provided further, however, that in cities with a population of one million or more, a teacher appointed under a newly created license, for teachers of reading and of the emotionally handicapped, to a position which the teacher has held for at least two years prior to such appointment while serving on tenure in another license area who was not dismissed 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 two years. 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 superintendent of schools in writing not later than sixty days immediately preceding the expiration of his or her probationary period. In all city school districts subject to the provisions of this article, failure to maintain certification as required by this article and by the regulations of the commissioner shall be cause for removal within the meaning of subdivision five of this section.

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

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

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

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

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

1 teen--two thousand twenty and two thousand twenty--two thousand twenty-
2 one school years; provided that, in the case of a classroom teacher or
3 building principal appointed during the two thousand eighteen--two thou-
4 sand nineteen or two thousand nineteen--two thousand twenty school year
5 who has not received an annual professional performance review rating
6 for three consecutive years, no composite ratings shall be required in
7 order for the district to appoint such teacher or building principal on
8 tenure if the teacher or principal would have been, in the superinten-
9 dent of schools' discretion, qualified for appointment on tenure based
10 upon performance, notwithstanding that such teacher or building princi-
11 pal's annual professional performance review had not been completed and
12 such teacher or principal had not received a composite annual profes-
13 sional performance review rating for the two thousand nineteen--two
14 thousand twenty, two thousand twenty--two thousand twenty-one and two
15 thousand twenty-one--two thousand twenty-two school years; provided that
16 in the case of a classroom teacher or building principal appointed
17 during the two thousand [~~twenty~~] twenty-one--two thousand [~~twenty-one~~]
18 twenty-two school year who have received composite annual professional
19 performance review ratings pursuant to section three thousand twelve-c
20 or section three thousand twelve-d of this chapter of either effective
21 or highly effective in at least two of the four preceding years, exclu-
22 sive of any breaks in service, and did not receive an ineffective rating
23 in the final year of his or her probationary period or during the most
24 recent school year where a rating was received, and would have been in
25 the superintendent of schools' discretion qualified for appointment on
26 tenure based upon performance, notwithstanding that his or her annual
27 professional performance review had not been completed and he or she had
28 not received an annual professional performance rating for the two thou-
29 sand twenty--two thousand twenty-one school year; provided further that,
30 notwithstanding any other provision of this section to the contrary,
31 when a teacher receives an effective and/or highly effective rating in
32 each year of his or her probationary service except he or she receives
33 an ineffective rating in the final year of his or her probationary peri-
34 od, such teacher or principal shall not be eligible for tenure but the
35 board of education in its discretion, may extend the teacher's proba-
36 tionary period for an additional year; provided, however, that if such
37 teacher or principal successfully appealed such ineffective rating, such
38 teacher or principal shall immediately be eligible for tenure if the
39 rating resulting from the appeal established that such individual has
40 been effective or highly effective in at least three of the preceding
41 four years and was not ineffective in the final year. At the expiration
42 of the probationary period, the classroom teacher or building principal
43 shall remain in probationary status until the end of the school year in
44 which such teacher or principal has received such ratings of effective
45 or highly effective for at least three of the four preceding school
46 years, exclusive of any breaks in service and subject to the terms here-
47 of, during which time a board of education shall consider whether to
48 grant tenure for those classroom teachers or building principals who
49 otherwise have been found competent, efficient and satisfactory.
50 Provided, however, that the board of education may grant tenure contin-
51 gent upon a classroom teacher's or building principal's receipt of a
52 minimum rating in the final year of the probationary period, pursuant to
53 the requirements of this section, and if such contingency is not met
54 after all appeals have been exhausted, the grant of tenure shall be void
55 and unenforceable and the teacher's or principal's probationary period
56 may be extended in accordance with this subdivision. Such persons who

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

10 § 11. This act shall take effect immediately.