

STATE OF NEW YORK

8276--A

Cal. No. 509

IN SENATE

February 8, 2022

Introduced by Sens. MAYER, KENNEDY, MANNION, SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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

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

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

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

31 (b) At the expiration of the probationary term of a person appointed
32 for such term on or after July first, two thousand fifteen, subject to
33 the conditions of this section, the superintendent of schools shall make
34 a written report to the board of education or the trustees of a common
35 school district recommending for appointment on tenure 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 compos-
38 ite annual professional performance review ratings pursuant to section
39 three thousand twelve-c or section three thousand twelve-d of this arti-
40 cle, 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 article, 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-

teen--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 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 contingen-

cy 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 article. Failure to maintain certification as required by this chapter and the regulations of the commissioner shall constitute cause for removal.

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

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

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

(b) Administrative assistants, supervisors, teachers and all other members of the teaching and supervising staff of the board of cooperative educational services appointed on or after July first, two thousand fifteen, shall be appointed by a majority vote of the board of cooperative educational services upon the recommendation of the district superintendent of schools for a probationary period of not to exceed four years; provided, however, that in the case of a teacher who has been appointed on tenure in a school district within the state, the board of cooperative educational services where currently employed, or another board of cooperative educational services, and who was not dismissed from such district or board as a result of charges brought pursuant to section three thousand twenty-a or section three thousand twenty-b of this article, 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 a composite annual professional performance review rating pursuant to section three thousand twelve-c or three thousand twelve-d of this article of either effective or highly effective in his or her final year of service in such other school district or board of cooperative educational services; and provided further that in the case of a principal, administrator, supervisor, or other member of the supervising staff who has been appointed on tenure pursuant to this chapter as an administrator within an authorized administrative tenure area 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 article, the principal, administrator, supervisor, or other member of the supervising staff shall be appointed for a probationary period of three years. Provided further, however, that in the case of a classroom teacher who has been appointed for a probation-

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

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

26 (b) On or before the expiration of the probationary term of a person
27 appointed for such term on or after July first, two thousand fifteen,
28 the district superintendent of schools shall make a written report to
29 the board of cooperative educational services recommending for appoint-
30 ment on tenure persons who have been found competent, efficient and
31 satisfactory and, in the case of a classroom teacher or building princi-
32 pal, who have received composite annual professional performance review
33 ratings pursuant to section three thousand twelve-c or section three
34 thousand twelve-d of this article, of either effective or highly effec-
35 tive in at least three of the four preceding years, exclusive of any
36 breaks in service; provided that, in the case of a classroom teacher or
37 building principal appointed during the two thousand seventeen--two
38 thousand eighteen[~~, two thousand eighteen two thousand nineteen or two~~
39 ~~thousand nineteen--two thousand twenty~~] or two thousand twenty--two
40 thousand twenty-one school year who have received composite annual
41 professional performance review ratings pursuant to section three thou-
42 sand twelve-c or section three thousand twelve-d of this article of
43 either effective or highly effective in at least one of the four preced-
44 ing years, exclusive of any breaks in service, and did not receive an
45 ineffective rating in the final year of his or her probationary period
46 or in the most recent school year where a rating was received, and would
47 have been in the district superintendent of schools' discretion quali-
48 fied for appointment on tenure based upon performance, notwithstanding
49 that his or her annual professional performance review had not been
50 completed and he or she had not received an annual professional perform-
51 ance rating for the two thousand nineteen--two thousand twenty [~~and~~],
52 two thousand twenty--two thousand twenty-one or the two thousand twen-
53 ty-one--two thousand twenty-two school [~~years~~] year; provided that, in
54 the case of a classroom teacher or building principal appointed during
55 the two thousand eighteen--two thousand nineteen or two thousand nine-
56 teen--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 district superintendent of schools to recommend for appointment on tenure such teacher or building principal if the teacher or principal would have been, in the district 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 district 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, during which time a board of cooperative educational services 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 cooperative educational services 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 shall hold their respective positions during good behavior and competent and efficient service and shall not be removed except for any of the following causes, after a

1 hearing, as provided by section three thousand twenty-a or section three
2 thousand twenty-b of this article: (i) Insubordination, immoral charac-
3 ter or conduct unbecoming a teacher; (ii) Inefficiency, incompetency, or
4 neglect of duty; (iii) Failure to maintain certification as required by
5 this chapter and by the regulations of the commissioner. Each person who
6 is not to be so recommended for appointment on tenure shall be so noti-
7 fied in writing by the district superintendent not later than sixty days
8 immediately preceding the expiration of his or her probationary period.

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

12 ii. Notwithstanding any other provision of law or regulation to the
13 contrary, teachers and all other members of the teaching staff appointed
14 on or after July first, two thousand fifteen and authorized by section
15 twenty-five hundred three of this article, shall be appointed by the
16 board of education, upon the recommendation of the superintendent of
17 schools, for a probationary period of four years, except that in the
18 case of a teacher who has rendered satisfactory service as a regular
19 substitute for a period of two years and, if a classroom teacher, has
20 received composite annual professional performance review ratings in
21 each of those years, or has rendered satisfactory service as a
22 seasonally licensed per session teacher of swimming in day schools who
23 has served in that capacity for a period of two years and has been
24 appointed to teach the same subject in day schools on an annual salary,
25 the teacher shall be appointed for a probationary period of two years;
26 provided, however, that in the case of a teacher who has been appointed
27 on tenure in another school district within the state, the school
28 district where currently employed, or a board of cooperative educational
29 services, and who was not dismissed from such district or board as a
30 result of charges brought pursuant to subdivision one of section three
31 thousand twenty-a or section three thousand twenty-b of this chapter,
32 the teacher shall be appointed for a probationary period of three years;
33 provided that the teacher demonstrates that he or she received an annual
34 professional performance review rating pursuant to section three thou-
35 sand twelve-c or section three thousand twelve-d of this chapter in his
36 or her final year of service in such other school district or board of
37 cooperative educational services. Provided further, however, that in the
38 case of a teacher who has been appointed for a probationary period
39 during the two thousand twenty--two thousand twenty-one, the two thou-
40 sand twenty-one--two thousand twenty-two or the two thousand twenty-two-
41 -two thousand twenty-three school year and who has been appointed on
42 tenure in another school district within the state, the school district
43 where currently employed, board of cooperative educational services or
44 state school for the blind or deaf and who was not dismissed from such
45 district, board or state school for the blind or deaf as a result of
46 charges brought pursuant to subdivision one of section three thousand
47 twenty-a or section three thousand twenty-b of this chapter, such teach-
48 er shall be appointed for a probationary period of three years; provided
49 that, in the case of a classroom teacher, such teacher demonstrates that
50 he or she received an annual professional performance review rating
51 pursuant to section three thousand twelve-c or section three thousand
52 twelve-d of this chapter in the two thousand seventeen--two thousand
53 eighteen or two thousand eighteen--two thousand nineteen school year in
54 such other school district, board of cooperative educational services or
55 state school for the blind or deaf. The service of a person appointed to
56 any of such positions may be discontinued at any time during such proba-

tionary 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 review 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 preced-

ing 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 or principal 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. By a majority vote, the board of education may then appoint on tenure any or all of the persons recommended by the superintendent of schools. 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 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.

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

ii. 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 fifty-four 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

1 substitute for a period of two years and, if a classroom teacher, has
2 received annual professional performance review ratings in each of those
3 years, or has rendered satisfactory service as a seasonally licensed per
4 session teacher of swimming in day schools who has served in that capac-
5 ity for a period of two years and has been appointed to teach the same
6 subject in day schools on an annual salary, the teacher shall be
7 appointed for a probationary period of two years; provided, however,
8 that in the case of a teacher who has been appointed on tenure in another
9 school district within the state, the school district where currently
10 employed, or a board of cooperative educational services, and who was
11 not dismissed from such district or board as a result of charges brought
12 pursuant to subdivision one of section three thousand twenty-a or
13 section three thousand twenty-b of this chapter, the teacher shall be
14 appointed for a probationary period of three years; provided that, in
15 the case of a classroom teacher, the teacher demonstrates that he or she
16 received an annual professional performance review rating pursuant to
17 section three thousand twelve-c or section three thousand twelve-d of
18 this chapter in his or her final year of service in such other school
19 district or board of cooperative educational services; provided, howev-
20 er, that, in the case of a classroom teacher who has been appointed for
21 a probationary period during the two thousand twenty--two thousand twen-
22 ty-one, the two thousand twenty-one--two thousand twenty-two or the two
23 thousand twenty-two--two thousand twenty-three school year and who has
24 been appointed on tenure in another school district within the state,
25 the school district where currently employed, board of cooperative
26 educational services or state school for the blind or deaf, and who was
27 not dismissed from such district, board or state school for the blind or
28 deaf as a result of charges brought pursuant to section three thousand
29 twenty-a or section three thousand twenty-b of this chapter, such teach-
30 er shall be appointed for a probationary period of three years; provided
31 that, in the case of a classroom teacher, such teacher demonstrates that
32 he or she received an annual professional performance review rating
33 pursuant to section three thousand twelve-c or section three thousand
34 twelve-d of this chapter in the two thousand seventeen--two thousand
35 eighteen or two thousand eighteen--two thousand nineteen school year in
36 such other school district, board of cooperative educational services or
37 state school for the blind or deaf; provided further, however, that in
38 cities with a population of one million or more, a teacher appointed
39 under a newly created license, for teachers of reading and of the
40 emotionally handicapped, to a position which the teacher has held for at
41 least two years prior to such appointment while serving on tenure in
42 another license area who was not dismissed as a result of charges
43 brought pursuant to subdivision one of section three thousand twenty-a
44 or section three thousand twenty-b of this chapter, the teacher shall be
45 appointed for a probationary period of two years. The service of a
46 person appointed to any of such positions may be discontinued at any
47 time during such probationary period, on the recommendation of the
48 superintendent of schools, by a majority vote of the board of education.
49 Each person who is not to be recommended for appointment on tenure shall
50 be so notified by the superintendent of schools in writing not later
51 than sixty days immediately preceding the expiration of his or her
52 probationary period. In all city school districts subject to the
53 provisions of this article, failure to maintain certification as
54 required by this article and by the regulations of the commissioner
55 shall be cause for removal within the meaning of subdivision five of
56 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 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

1 professional performance review had not been completed and he or she had
2 not received an annual professional performance rating for the two thou-
3 sand twenty--two thousand twenty-one or two thousand twenty-one--two
4 thousand twenty-two school year; provided further that, notwithstanding
5 any other provision of this section to the contrary, when a teacher or
6 principal receives an effective and/or highly effective rating in each
7 year of his or her probationary service except he or she receives an
8 ineffective rating in the final year of his or her probationary period,
9 such teacher or principal shall not be eligible for tenure but the board
10 of education in its discretion, may extend the teacher's probationary
11 period for an additional year; provided, however, that if such teacher
12 or principal successfully appealed such ineffective rating, such teacher
13 or principal shall immediately be eligible for tenure if the rating
14 resulting from the appeal established that such individual has been
15 effective or highly effective in at least three of the preceding four
16 years. At the expiration of the probationary period, the classroom
17 teacher or building principal shall remain in probationary status until
18 the end of the school year in which such teacher or principal has
19 received such ratings of effective or highly effective for at least
20 three of the four preceding school years, exclusive of any breaks in
21 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 educa-
25 tion 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 proba-
27 tionary 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 pursu-
34 ant 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 § 10. Paragraph (b) of subdivision 6 of section 2573 of the education
41 law, as amended by chapter 147 of the laws of 2021, is amended to read
42 as follows:

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

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

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

24 § 11. This act shall take effect immediately.