

# STATE OF NEW YORK

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5576--B

Cal. No. 618

2021-2022 Regular Sessions

## IN SENATE

March 11, 2021

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Introduced by Sens. MAYER, JORDAN, MARTUCCI, TEDISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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 the granting of tenure

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

1 Section 1. Paragraph (b) of subdivision 2 of section 3012 of the  
2 education law, as added by section 4 of subpart D of part EE of chapter  
3 56 of the laws of 2015, is amended to read as follows:

4 (b) At the expiration of the probationary term of a person appointed  
5 for such term on or after July first, two thousand fifteen, subject to  
6 the conditions of this section, the superintendent of schools shall make  
7 a written report to the board of education or the trustees of a common  
8 school district recommending for appointment on tenure those persons who  
9 have been found competent, efficient and satisfactory and, in the case  
10 of a classroom teacher or building principal, who have received compos-  
11 ite annual professional performance review ratings pursuant to section  
12 three thousand twelve-c or section three thousand twelve-d of this arti-  
13 cle, of either effective or highly effective in at least three of the  
14 four preceding years, exclusive of any breaks in service; provided that,  
15 notwithstanding any other provision of this section to the contrary,  
16 when a teacher or principal receives an effective or highly effective  
17 rating in each year of his or her probationary service except he or she  
18 receives an ineffective rating in the final year of his or her proba-  
19 tionary period, such teacher shall not be eligible for tenure but the  
20 board of education, in its discretion, may extend the teacher's proba-  
21 tionary period for an additional year; provided, however, that if such

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

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1 teacher or principal successfully appealed such ineffective rating, such  
2 teacher or principal shall immediately be eligible for tenure if the  
3 rating resulting from the appeal established that such individual has  
4 been effective or highly effective in at least three of the preceding  
5 four years and was not ineffective in the final year. At the expiration  
6 of the probationary period, the classroom teacher or building principal  
7 shall remain in probationary status until the end of the school year in  
8 which such teacher or principal has received such ratings of effective  
9 or highly effective for at least three of the four preceding school  
10 years, exclusive of any breaks in service, and subject to the terms  
11 hereof, during which time the trustees or board of education shall  
12 consider whether to grant tenure for those classroom teachers or build-  
13 ing principals who otherwise have been found competent, efficient and  
14 satisfactory. Provided, however, that the trustees or board of education  
15 may grant tenure contingent upon a classroom teacher's or building prin-  
16 cipal's receipt of a minimum rating in the final year of the probation-  
17 ary period, pursuant to the requirements of this section, and if such  
18 contingency is not met after all appeals have been exhausted, the grant  
19 of tenure shall be void and unenforceable and the teacher's or princi-  
20 pal's probationary period may be extended in accordance with this subdi-  
21 vision. Such persons who have been recommended for tenure and all others  
22 employed in the teaching service of the schools of such school district  
23 who have served the full probationary period as extended pursuant to  
24 this subdivision shall hold their respective positions during good  
25 behavior and efficient and competent service, and shall not be removable  
26 except for cause after a hearing as provided by section three thousand  
27 twenty-a or section three thousand twenty-b of this article. Failure to  
28 maintain certification as required by this chapter and the regulations  
29 of the commissioner shall constitute cause for removal. Provided that,  
30 at the expiration of the probationary term of a classroom teacher or  
31 building principal described herein who was appointed during the two  
32 thousand seventeen--two thousand eighteen, two thousand eighteen--two  
33 thousand nineteen and two thousand nineteen--two thousand twenty school  
34 years, such individual shall be eligible for tenure if he or she  
35 received composite annual professional performance review ratings pursu-  
36 ant to section three thousand twelve-c or section three thousand  
37 twelve-d of this article, of either effective or highly effective in at  
38 least one of the four preceding years and did not receive an ineffective  
39 rating in the final year of his or her probationary period, or during  
40 the most recent school year where a rating was received. Any probation-  
41 ary classroom teacher hired during the two thousand twenty--two thousand  
42 twenty-one school year who was appointed on tenure in another school  
43 district within the state, the school district where currently employed,  
44 board of cooperative educational services or state school for the blind  
45 or deaf and who was not dismissed from such district, board or state  
46 school for the blind or deaf as a result of charges brought pursuant to  
47 subdivision one of section three thousand twenty-a or section three  
48 thousand twenty-b of this article, shall be appointed for a probationary  
49 period of three years; provided that, in the case of a classroom teacher  
50 such individual demonstrates that he or she received an annual profes-  
51 sional performance review rating pursuant to section three thousand  
52 twelve-c or section three thousand twelve-d of this article in the two  
53 thousand seventeen--two thousand eighteen or two thousand eighteen--two  
54 thousand nineteen school year. Any probationary classroom teachers or  
55 building principals described herein who were appointed during the two  
56 thousand twenty--two thousand twenty-one school year shall be eligible

1 for tenure at the expiration of his or her probationary period if he or  
2 she received composite annual professional performance review ratings  
3 pursuant to section three thousand twelve-c or section three thousand  
4 twelve-d of this article of either effective or highly effective in at  
5 least two of the four preceding years and did not receive an ineffective  
6 rating in the final year of his or her probationary period, or during  
7 the most recent school year where a rating was received.

8 § 2. Section 3012-d of the education law is amended by adding a new  
9 subdivision 17 to read as follows:

10 17. Notwithstanding any other provision of this section, for the two  
11 thousand twenty--two thousand twenty-one school year, no school district  
12 or board of cooperative educational services shall complete an annual  
13 professional performance review required by this section for any class-  
14 room teacher or building principal and state funding shall not be with-  
15 held from any school district for not completing the annual professional  
16 performance review.

17 § 3. Paragraph (b) of subdivision 2 of section 3014 of the education  
18 law, as added by section 5 of subpart D of part EE of chapter 56 of the  
19 laws of 2015, is amended to read 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, notwithstanding any other provision of  
31 this section to the contrary, when a teacher or principal receives an  
32 effective or highly effective rating in each year of his or her proba-  
33 tionary service except he or she receives an ineffective rating in the  
34 final year of his or her probationary period, such teacher shall not be  
35 eligible for tenure but the board of education in its discretion, may  
36 extend the teacher's probationary period for an additional year;  
37 provided, however that if such teacher or principal successfully  
38 appealed such ineffective rating, such teacher or principal shall imme-  
39 diately be eligible for tenure if the rating resulting from the appeal  
40 established that such individual has been effective or highly effective  
41 in at least three of the preceding four years and was not ineffective in  
42 the final year. At the expiration of the probationary period, the class-  
43 room teacher or building principal shall remain in probationary status  
44 until the end of the school year in which such teacher or principal has  
45 received such ratings of effective or highly effective for at least  
46 three of the four preceding school years, exclusive of any breaks in  
47 service, during which time a board of cooperative educational services  
48 shall consider whether to grant tenure for those classroom teachers or  
49 building principals who otherwise have been found competent, efficient  
50 and satisfactory. Provided, however, that the board of cooperative  
51 educational services may grant tenure contingent upon a classroom teach-  
52 er's or building principal's receipt of a minimum rating in the final  
53 year of the probationary period, pursuant to the requirements of this  
54 section, and if such contingency is not met after all appeals have been  
55 exhausted, the grant of tenure shall be void and unenforceable and the  
56 teacher's or principal's probationary period may be extended in accord-

1   ance with this subdivision. Such persons shall hold their respective  
2   positions during good behavior and competent and efficient service and  
3   shall not be removed except for any of the following causes, after a  
4   hearing, as provided by section three thousand twenty-a or section three  
5   thousand twenty-b of this article: (i) Insubordination, immoral charac-  
6   ter or conduct unbecoming a teacher; (ii) Inefficiency, incompetency, or  
7   neglect of duty; (iii) Failure to maintain certification as required by  
8   this chapter and by the regulations of the commissioner. Each person who  
9   is not to be so recommended for appointment on tenure shall be so noti-  
10  fied in writing by the district superintendent not later than sixty days  
11  immediately preceding the expiration of his or her probationary period.

12  Provided that, at the expiration of the probationary term of a classroom  
13  teacher or building principal described herein who was appointed during  
14  the two thousand seventeen--two thousand eighteen, two thousand eigh-  
15  teen--two thousand nineteen and two thousand nineteen--two thousand  
16  twenty school years, such individual shall be eligible for tenure if he  
17  or she received composite annual professional performance review ratings  
18  pursuant to section three thousand twelve-c or section three thousand  
19  twelve-d of this article of either effective or highly effective in at  
20  least one of the four preceding years and did not receive an ineffective  
21  rating in the final year of his or her probationary period or during the  
22  most recent school year where a rating was received. Any probationary  
23  classroom teacher, hired during the two thousand twenty--two thousand  
24  twenty-one school year who was appointed on tenure in another school  
25  district within the state, the school district where currently employed,  
26  board of cooperative educational services or state school for the blind  
27  or deaf and who was not dismissed from such district, board or state  
28  school for the blind or deaf as a result of charges brought pursuant to  
29  subdivision one of section three thousand twenty-a or section three  
30  thousand twenty-b of this article, such teacher, shall be appointed for  
31  a probationary period of three years; provided that, in the case of a  
32  classroom teacher such individual demonstrates that he or she received  
33  an annual professional performance review rating pursuant to section  
34  three thousand twelve-c or section three thousand twelve-d of this arti-  
35  cle in the two thousand seventeen--two thousand eighteen or two thousand  
36  eighteen--two thousand nineteen school year. Any probationary classroom  
37  teachers or building principals described herein who were appointed  
38  during the two thousand twenty--two thousand twenty-one school year  
39  shall be eligible for tenure at the expiration of his or her probation-  
40  ary period if he or she received composite annual professional perform-  
41  ance review ratings pursuant to section three thousand twelve-c or  
42  section three thousand twelve-d of this article of either effective or  
43  highly effective in at least two of the four preceding years and did not  
44  receive an ineffective rating in the final year of his or her probation-  
45  ary period, or during the most recent school year where a rating was  
46  received.

47   § 4. Paragraph b of subdivision 2 of section 2509 of the education  
48   law, as added by section 2 of subpart D of part EE of chapter 56 of the  
49   laws of 2015, is amended to read as follows:

50   b. For persons appointed on or after July first, two thousand fifteen,  
51   at the expiration of the probationary term of any persons appointed for  
52   such term, or within six months prior thereto, the superintendent of  
53   schools shall make a written report to the board of education recommend-  
54   ing for appointment on tenure those persons who have been found compe-  
55   tent, efficient and satisfactory and in the case of a classroom teacher  
56   or building principal, who have received annual professional performance

1 review ratings pursuant to section three thousand twelve-c or section  
2 three thousand twelve-d of this chapter, of either effective or highly  
3 effective in at least three of the four preceding years, exclusive of  
4 any breaks in service; provided that, notwithstanding any other  
5 provision of this section to the contrary, when a teacher or principal  
6 receives an effective or highly effective rating in each year of his or  
7 her probationary service except he or she receives an ineffective rating  
8 in the final year of his or her probationary period, such teacher or  
9 principal shall not be eligible for tenure but the board of education in  
10 its discretion, may extend the teacher's probationary period for an  
11 additional year; provided, however, that if such teacher or principal  
12 successfully appealed such ineffective rating, such teacher or principal  
13 shall immediately be eligible for tenure if the rating resulting from  
14 the appeal established that such individual has been effective or highly  
15 effective in at least three of the preceding four years and was not  
16 ineffective in the final year. By a majority vote, the board of educa-  
17 tion may then appoint on tenure any or all of the persons recommended by  
18 the superintendent of schools. At the expiration of the probationary  
19 period, the classroom teacher or building principal shall remain in  
20 probationary status until the end of the school year in which such  
21 teacher or principal has received such ratings of effective or highly  
22 effective for at least three of the four preceding school years exclu-  
23 sive of any breaks in service and subject to the terms hereof, during  
24 which time a board of education shall consider whether to grant tenure  
25 for those classroom teachers or building principals who otherwise have  
26 been found competent, efficient and satisfactory. Provided, however,  
27 that the board of education may grant tenure contingent upon a classroom  
28 teacher's or building principal's receipt of a minimum rating in the  
29 final year of the probationary period, pursuant to the requirements of  
30 this section, and if such contingency is not met after all appeals have  
31 been exhausted, the grant of tenure shall be void and unenforceable and  
32 the teacher's or principal's probationary period may be extended in  
33 accordance with this subdivision. Such persons who have been recommended  
34 for tenure and all others employed in the teaching service of the  
35 schools of such school district who have served the full probationary  
36 period as extended pursuant to this subdivision shall hold their respec-  
37 tive positions during good behavior and efficient and competent service,  
38 and shall not be removable except for cause after a hearing as provided  
39 by section three thousand twenty-a or section three thousand twenty-b of  
40 this chapter. Failure to maintain certification as required by this  
41 chapter and the regulations of the commissioner shall constitute cause  
42 for removal. Provided that, at the expiration of the probationary term  
43 of a classroom teacher or building principal described herein who was  
44 appointed during the two thousand seventeen--two thousand eighteen, two  
45 thousand eighteen--two thousand nineteen and two thousand nineteen--two  
46 thousand twenty school years, such individual shall be eligible for  
47 tenure if he or she received composite annual professional performance  
48 review ratings pursuant to section three thousand twelve-c or section  
49 three thousand twelve-d of this chapter of either effective or highly  
50 effective in at least one of the four preceding years and did not  
51 receive an ineffective rating in the final year of his or her probation-  
52 ary period or during the most recent school year where a rating was  
53 received. Any probationary classroom teacher hired during the two thou-  
54 sand twenty--two thousand twenty-one school year who was appointed on  
55 tenure in another school district within the state, the school district  
56 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 individual 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. Any probationary classroom teachers or building principals described herein who were appointed during the two thousand twenty--two thousand twenty-one school year shall be eligible for tenure at the expiration of his or her probationary period if they 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 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.

§ 5. Subparagraph ii of paragraph (a) of subdivision 1 of section 2573 of the education law, as amended by section 3 of subpart D of part EE of chapter 56 of the laws of 2015, 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 substitute for a period of two years and, if a classroom teacher, has received 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, 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 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

1 person appointed to any of such positions may be discontinued at any  
2 time during such probationary period, on the recommendation of the  
3 superintendent of schools, by a majority vote of the board of education.  
4 Each person who is not to be recommended for appointment on tenure shall  
5 be so notified by the superintendent of schools in writing not later  
6 than sixty days immediately preceding the expiration of his or her  
7 probationary period. In all city school districts subject to the  
8 provisions of this article, failure to maintain certification as  
9 required by this article and by the regulations of the commissioner  
10 shall be cause for removal within the meaning of subdivision five of  
11 this section. Provided that, at the expiration of the probationary term  
12 of a classroom teacher described herein who was appointed during the two  
13 thousand seventeen--two thousand eighteen, two thousand eighteen--two  
14 thousand nineteen and two thousand nineteen--two thousand twenty school  
15 years, such individual shall be eligible for tenure if he or she  
16 received composite annual professional performance review ratings pursu-  
17 ant to section three thousand twelve-c or section three thousand  
18 twelve-d of this chapter of either effective or highly effective in at  
19 least one of the four preceding years and did not receive an ineffective  
20 rating in the final year of his or her probationary period or during the  
21 most recent school year where a rating was received. Any probationary  
22 classroom teacher hired during the two thousand twenty--two thousand  
23 twenty-one school year who was appointed on tenure in another school  
24 district within the state, the school district where currently employed,  
25 board of cooperative educational services or state school for the blind  
26 or deaf and who was not dismissed from such district, board or state  
27 school for the blind or deaf as a result of charges brought pursuant to  
28 subdivision one of section three thousand twenty-a or section three  
29 thousand twenty-b of this chapter, such teacher shall be appointed for a  
30 probationary period of three years; provided that, in the case of a  
31 classroom teacher such individual demonstrates that he or she received  
32 an annual professional performance review rating pursuant to section  
33 three thousand twelve-c or section three thousand twelve-d of this chap-  
34 ter in the two thousand seventeen--two thousand eighteen or two thousand  
35 eighteen--two thousand nineteen school year. Any probationary classroom  
36 teachers described herein who were appointed during the two thousand  
37 twenty--two thousand twenty-one school year shall be eligible for tenure  
38 at the expiration of his or her probationary period if they have  
39 received composite annual professional performance review ratings pursu-  
40 ant to section three thousand twelve-c or section three thousand  
41 twelve-d of this chapter of either effective or highly effective in at  
42 least two of the four preceding years and did not receive an ineffective  
43 rating in the final year of his or her probationary period, or during  
44 the most recent school year where a rating was received.

45 § 6. Subparagraph ii of paragraph (b) of subdivision 1 of section  
46 2573 of the education law, as amended by chapter 345 of the laws of  
47 2019, is amended to read as follows:

48 ii. Administrators, directors, supervisors, principals and all other  
49 members of the supervising staff, except executive directors, associate,  
50 assistant, district and community superintendents and examiners,  
51 appointed on or after July first, two thousand fifteen and authorized by  
52 section twenty-five hundred fifty-four of this article, shall be  
53 appointed by the board of education, upon the recommendation of the  
54 superintendent or chancellor of schools, for a probationary period of  
55 four years provided that such probationary period may be extended in  
56 accordance with paragraph (b) of subdivision five of this section;

1 provided, however, that in the case of a principal, administrator,  
2 supervisor, or other member of the supervising staff who has been  
3 appointed on tenure pursuant to this chapter as an administrator within  
4 an authorized administrative tenure area in another school district  
5 within the state, the school district where currently employed, or a  
6 board of cooperative educational services, and who was not dismissed  
7 from such district or board as a result of charges brought pursuant to  
8 subdivision one of section three thousand twenty-a or section three  
9 thousand twenty-b of this chapter, the principal, administrator, super-  
10 visor or other member of the supervising staff shall be appointed for a  
11 probationary period of three years. The service of a person appointed to  
12 any of such positions may be discontinued at any time during the proba-  
13 tionary period on the recommendation of the superintendent of schools,  
14 by a majority vote of the board of education. Provided that, at the  
15 expiration of the probationary term of a building principal described  
16 herein who was appointed during the two thousand seventeen--two thousand  
17 eighteen, two thousand eighteen--two thousand nineteen and two thousand  
18 nineteen--two thousand twenty school years, such individual shall be  
19 eligible for tenure if he or she received composite annual professional  
20 performance review ratings pursuant to section three thousand twelve-c  
21 or section three thousand twelve-d of this chapter of either effective  
22 or highly effective in at least one of the four preceding years and did  
23 not receive an ineffective rating in the final year of his or her proba-  
24 tionary period or during the most recent school year where a rating was  
25 received. Any probationary building principals described herein who were  
26 appointed during the two thousand twenty--two thousand twenty-one school  
27 year shall be eligible for tenure at the expiration of his or her proba-  
28 tionary period if they have received composite annual professional  
29 performance review ratings pursuant to section three thousand twelve-c  
30 or section three thousand twelve-d of this chapter of either effective  
31 or highly effective in at least two of the four preceding years and did  
32 not receive an ineffective rating in the final year of his or her proba-  
33 tionary period, or during the most recent school year where a rating was  
34 received.

35 § 7. This act shall take effect immediately.