

# STATE OF NEW YORK

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8276

## IN SENATE

February 8, 2022

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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~~ 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.