

# STATE OF NEW YORK

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Cal. No. 509

## IN SENATE

February 8, 2022

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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.