

# STATE OF NEW YORK

9460

## IN SENATE

May 30, 2022

Introduced by Sen. LIU -- read twice and ordered printed, and when printed to be committed to the Committee on New York City Education

AN ACT to amend the education law, in relation to the contract for excellence in a city school district in a city having a population of one million or more inhabitants

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

1 Section 1. Paragraph e of subdivision 1 of section 211-d of the educa-  
2 tion law, as amended by section 1 of part A of chapter 56 of the laws of  
3 2022, is amended to read as follows:

4 e. Notwithstanding paragraphs a and b of this subdivision, a school  
5 district that submitted a contract for excellence for the two thousand  
6 eight--two thousand nine school year shall submit a contract for excel-  
7 lence for the two thousand nine--two thousand ten school year in  
8 conformity with the requirements of subparagraph (vi) of paragraph a of  
9 subdivision two of this section unless all schools in the district are  
10 identified as in good standing and provided further that, a school  
11 district that submitted a contract for excellence for the two thousand  
12 nine--two thousand ten school year, unless all schools in the district  
13 are identified as in good standing, shall submit a contract for excel-  
14 lence for the two thousand eleven--two thousand twelve school year which  
15 shall, notwithstanding the requirements of subparagraph (vi) of para-  
16 graph a of subdivision two of this section, provide for the expenditure  
17 of an amount which shall be not less than the product of the amount  
18 approved by the commissioner in the contract for excellence for the two  
19 thousand nine--two thousand ten school year, multiplied by the  
20 district's gap elimination adjustment percentage and provided further  
21 that, a school district that submitted a contract for excellence for the  
22 two thousand eleven--two thousand twelve school year, unless all schools  
23 in the district are identified as in good standing, shall submit a  
24 contract for excellence for the two thousand twelve--two thousand thir-  
25 teen school year which shall, notwithstanding the requirements of  
26 subparagraph (vi) of paragraph a of subdivision two of this section,  
27 provide for the expenditure of an amount which shall be not less than

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

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1 the amount approved by the commissioner in the contract for excellence  
2 for the two thousand eleven--two thousand twelve school year and  
3 provided further that, a school district that submitted a contract for  
4 excellence for the two thousand twelve--two thousand thirteen school  
5 year, unless all schools in the district are identified as in good  
6 standing, shall submit a contract for excellence for the two thousand  
7 thirteen--two thousand fourteen school year which shall, notwithstanding  
8 the requirements of subparagraph (vi) of paragraph a of subdivision two  
9 of this section, provide for the expenditure of an amount which shall be  
10 not less than the amount approved by the commissioner in the contract  
11 for excellence for the two thousand twelve--two thousand thirteen school  
12 year and provided further that, a school district that submitted a  
13 contract for excellence for the two thousand thirteen--two thousand  
14 fourteen school year, unless all schools in the district are identified  
15 as in good standing, shall submit a contract for excellence for the two  
16 thousand fourteen--two thousand fifteen school year which shall,  
17 notwithstanding the requirements of subparagraph (vi) of paragraph a of  
18 subdivision two of this section, provide for the expenditure of an  
19 amount which shall be not less than the amount approved by the commis-  
20 sioner in the contract for excellence for the two thousand thirteen--two  
21 thousand fourteen school year; and provided further that, a school  
22 district that submitted a contract for excellence for the two thousand  
23 fourteen--two thousand fifteen school year, unless all schools in the  
24 district are identified as in good standing, shall submit a contract for  
25 excellence for the two thousand fifteen--two thousand sixteen school  
26 year which shall, notwithstanding the requirements of subparagraph (vi)  
27 of paragraph a of subdivision two of this section, provide for the  
28 expenditure of an amount which shall be not less than the amount  
29 approved by the commissioner in the contract for excellence for the two  
30 thousand fourteen--two thousand fifteen school year; and provided  
31 further that a school district that submitted a contract for excellence  
32 for the two thousand fifteen--two thousand sixteen school year, unless  
33 all schools in the district are identified as in good standing, shall  
34 submit a contract for excellence for the two thousand sixteen--two thou-  
35 sand seventeen school year which shall, notwithstanding the requirements  
36 of subparagraph (vi) of paragraph a of subdivision two of this section,  
37 provide for the expenditure of an amount which shall be not less than  
38 the amount approved by the commissioner in the contract for excellence  
39 for the two thousand fifteen--two thousand sixteen school year; and  
40 provided further that, a school district that submitted a contract for  
41 excellence for the two thousand sixteen--two thousand seventeen school  
42 year, unless all schools in the district are identified as in good  
43 standing, shall submit a contract for excellence for the two thousand  
44 seventeen--two thousand eighteen school year which shall, notwithstand-  
45 ing the requirements of subparagraph (vi) of paragraph a of subdivision  
46 two of this section, provide for the expenditure of an amount which  
47 shall be not less than the amount approved by the commissioner in the  
48 contract for excellence for the two thousand sixteen--two thousand  
49 seventeen school year; and provided further that a school district that  
50 submitted a contract for excellence for the two thousand seventeen--two  
51 thousand eighteen school year, unless all schools in the district are  
52 identified as in good standing, shall submit a contract for excellence  
53 for the two thousand eighteen--two thousand nineteen school year which  
54 shall, notwithstanding the requirements of subparagraph (vi) of para-  
55 graph a of subdivision two of this section, provide for the expenditure  
56 of an amount which shall be not less than the amount approved by the

1 commissioner in the contract for excellence for the two thousand seven-  
2 teen--two thousand eighteen school year; and provided further that, a  
3 school district that submitted a contract for excellence for the two  
4 thousand eighteen--two thousand nineteen school year, unless all schools  
5 in the district are identified as in good standing, shall submit a  
6 contract for excellence for the two thousand nineteen--two thousand  
7 twenty school year which shall, notwithstanding the requirements of  
8 subparagraph (vi) of paragraph a of subdivision two of this section,  
9 provide for the expenditure of an amount which shall be not less than  
10 the amount approved by the commissioner in the contract for excellence  
11 for the two thousand eighteen--two thousand nineteen school year; and  
12 provided further that, a school district that submitted a contract for  
13 excellence for the two thousand nineteen--two thousand twenty school  
14 year, unless all schools in the district are identified as in good  
15 standing, shall submit a contract for excellence for the two thousand  
16 twenty--two thousand twenty-one school year which shall, notwithstanding  
17 the requirements of subparagraph (vi) of paragraph a of subdivision two  
18 of this section, provide for the expenditure of an amount which shall be  
19 not less than the amount approved by the commissioner in the contract  
20 for excellence for the two thousand nineteen--two thousand twenty school  
21 year; and provided further that, a school district that submitted a  
22 contract for excellence for the two thousand twenty--two thousand twen-  
23 ty-one school year, unless all schools in the district are identified as  
24 in good standing, shall submit a contract for excellence for the two  
25 thousand twenty-one--two thousand twenty-two school year which shall,  
26 notwithstanding the requirements of subparagraph (vi) of paragraph a of  
27 subdivision two of this section, provide for the expenditure of an  
28 amount which shall be not less than the amount approved by the commis-  
29 sioner in the contract for excellence for the two thousand twenty--two  
30 thousand twenty-one school year; and provided further that, a school  
31 district that submitted a contract for excellence for the two thousand  
32 twenty-one--two thousand twenty-two school year, unless all schools in  
33 the district are identified as in good standing, shall submit a contract  
34 for excellence for the two thousand twenty-two--two thousand twenty-  
35 three school year which shall, notwithstanding the requirements of  
36 subparagraph (vi) of paragraph a of subdivision two of this section,  
37 provide for the expenditure of an amount which shall be not less than  
38 the amount approved by the commissioner in the contract for excellence  
39 for the two thousand twenty-one--two thousand twenty-two school year;  
40 provided, however, that, in a city school district in a city having a  
41 population of one million or more, notwithstanding the requirements of  
42 subparagraph (vi) of paragraph a of subdivision two of this section, the  
43 contract for excellence shall provide for the expenditure as set forth  
44 in subparagraph (v) of paragraph a of subdivision two of this section.  
45 For purposes of this paragraph, the "gap elimination adjustment percent-  
46 age" shall be calculated as the sum of one minus the quotient of the sum  
47 of the school district's net gap elimination adjustment for two thousand  
48 ten--two thousand eleven computed pursuant to chapter fifty-three of the  
49 laws of two thousand ten, making appropriations for the support of  
50 government, plus the school district's gap elimination adjustment for  
51 two thousand eleven--two thousand twelve as computed pursuant to chapter  
52 fifty-three of the laws of two thousand eleven, making appropriations  
53 for the support of the local assistance budget, including support for  
54 general support for public schools, divided by the total aid for adjust-  
55 ment computed pursuant to chapter fifty-three of the laws of two thou-  
56 sand eleven, making appropriations for the local assistance budget,

1 including support for general support for public schools. Provided,  
2 further, that such amount shall be expended to support and maintain  
3 allowable programs and activities approved in the two thousand nine--two  
4 thousand ten school year or to support new or expanded allowable  
5 programs and activities in the current year.

6 § 2. Subparagraph (v) of paragraph a of subdivision 2 of section 211-d  
7 of the education law, as amended by section 2 of part A of chapter 57 of  
8 the laws of 2008, is amended to read as follows:

9 (v) In a city school district in a city having a population of one  
10 million or more inhabitants, each contract for excellence shall describe  
11 how the amounts apportioned to the school district in the current year  
12 as total foundation aid and academic achievement grants, in excess of  
13 one hundred three percent of the district's foundation aid base, [~~as~~  
14 ~~adjusted for additional amounts payable as charter school basic tuition~~  
15 ~~over such amount payable in the base year,~~] shall be used to support new  
16 programs and new activities or expand the use of programs and activities  
17 demonstrated to improve student achievement; provided however, up to  
18 thirty million dollars or twenty-five percent of additional funding  
19 received in the current year, whichever is less, may be used to maintain  
20 investments in the programs and activities listed in paragraph a of  
21 subdivision three of this section.

22 § 3. Subparagraphs (ii) and (iii) of paragraph (b) of subdivision 2 of  
23 section 211-d of the education law, subparagraph (ii) as amended by  
24 section 2 of part A of chapter 57 of the laws of 2008, subparagraph  
25 (iii) as added by section 3-a of part A of chapter 57 of the laws of  
26 2009, are amended to read as follows:

27 (ii) (A) In a city school district in a city having a population of  
28 one million or more inhabitants such contract shall also include a plan,  
29 which shall be developed in collaboration with the collective bargaining  
30 units representing teachers and the principals and signed off on by the  
31 chancellor and the presidents of each bargaining unit, to reduce [~~aver-~~  
32 ~~age~~] actual class sizes, [~~as defined by the commissioner, within five~~  
33 ~~years for the following grade ranges: (A) pre-kindergarten-third grade~~]  
34 beginning September two thousand twenty-two and to be achieved by  
35 September two thousand twenty-seven for all classes, with the exception  
36 of physical education and performing groups, as follows: (1) kindergar-  
37 ten-third grade to have no more than twenty students per class; [~~(B)~~]  
38 (2) fourth-eighth grade to have no more than twenty-three students per  
39 class; and [~~(C)~~] (3) high school to have no more than twenty-five  
40 students per class. [~~Such~~] Physical education and performing groups  
41 shall have no more than forty students per class at all levels. Each  
42 year of the plan, an additional twenty percent of the classrooms in the  
43 city school district, excluding special education classes, shall be in  
44 compliance with the class size targets such that the city school  
45 district is in full compliance by two thousand twenty-seven and all  
46 classes should maintain the target class size. The class size reduction  
47 plan shall prioritize schools serving populations with higher poverty  
48 levels.

49 (B) The class size reduction plan shall include [~~class size reduction~~  
50 for low performing and overcrowded schools and also] any exemptions to  
51 the class size targets. These exemptions shall be limited to: (1) space;  
52 (2) over-enrolled students; (3) license area shortages; and (4) severe  
53 economic distress. Any such exemptions shall be approved by the chancel-  
54 lor and the presidents of the collective bargaining units representing  
55 the teachers and the principals as part of the class size reduction  
56 plan. Should the chancellor and the presidents of the collective

1 bargaining units representing the teachers and the principals be unable  
2 to reach agreement on the exemptions after thirty days, the issue shall  
3 be determined by an arbitrator. In addition, any exemption based on  
4 available space shall include a reference to the capital budget to  
5 demonstrate that the budget is aligned with resolving the exemption  
6 status. Exempted classes, for the years in which they are exempt, and  
7 special education classes shall not count toward the twenty percent  
8 target.

9 (C) The class size reduction plan shall also include the methods to be  
10 used to achieve [such] the class [sizes] size targets, such as the  
11 creation or construction of more classrooms and school buildings, the  
12 placement of more than one teacher in a classroom or methods to other-  
13 wise reduce the student to teacher ratio[~~, provided, however, that~~  
14 ~~notwithstanding any law, rule or regulation to the contrary, the sole~~  
15 ~~and exclusive remedy for a violation of the requirements of this para-~~  
16 ~~graph shall be pursuant to a petition to the commissioner under subdivi-~~  
17 ~~sion seven of section three hundred ten of this title, and the decision~~  
18 ~~of the commissioner on such petition shall be final and unreviewable],~~  
19 but only as a temporary measure until more classrooms are made available  
20 in conformance with the plan. For elective and specialty classes, the  
21 collective bargaining unit representing teachers may negotiate class  
22 sizes higher than the targets if such increase is approved by a majority  
23 of the staff in the school.

24 (iii) A city school district in a city having a population of one  
25 million or more inhabitants shall prepare [~~a report~~] annual reports, on  
26 the dates set forth below, to the commissioner on the status of the  
27 implementation of its plan to reduce [~~average~~] actual class sizes pursu-  
28 ant to subparagraph (ii) of this paragraph. Such report shall [~~identify~~]  
29 be publicly released and posted on the city school district's website,  
30 identifying all schools that received funds targeted at class size  
31 reduction efforts pursuant to the requirements of this section and  
32 [~~provide~~] providing the following information regarding such schools:

33 (A) the amount of contract for excellence funds received by each  
34 school and the school year in which it received such funds;

35 (B) a detailed description of how contract for excellence funds  
36 contributed to achieving class size reduction in each school that  
37 received such funding including specific information on the number of  
38 [~~classrooms~~] classes in each school that existed prior to receiving  
39 contract for excellence funds and the number of new [~~classrooms~~] classes  
40 that were created in each school for each year such funding was  
41 received, the number of classroom teachers that existed in each school  
42 prior to receiving contract for excellence funds and the number of new  
43 classroom teachers in each school for each year such funding was  
44 received, the student to teacher ratio in each school prior to receiving  
45 contract for excellence funds and the student to teacher ratio in each  
46 school for each year such funding was received;

47 (C) the actual student enrollment for the [~~two thousand six--two thou-~~  
48 ~~sand seven school year, the actual student enrollment for the two thou-~~  
49 ~~sand seven--two thousand eight school year, the actual student enroll-~~  
50 ~~ment for the two thousand eight--two thousand nine school year,] current  
51 school year and the projected student enrollment for the [~~two thousand~~  
52 ~~nine--two thousand ten] upcoming school year for each school by grade  
53 level;~~~~

54 (D) the actual [~~average~~] class sizes for the [~~two thousand six--two~~  
55 ~~thousand seven school year, the actual average class sizes for the two~~  
56 ~~thousand seven--two thousand eight school year, the actual average class~~

1 ~~sizes for the two thousand eight two thousand nine~~ current school  
2 year, and the projected [~~average~~] class sizes for the [~~two thousand~~  
3 ~~nine two thousand ten~~] upcoming school year for each school by grade  
4 level; [~~and~~]

5 (E) the annual capital plan for school construction and leasing to  
6 show how many classrooms will be added in each year and in which schools  
7 and districts to achieve the class size targets;

8 (F) how the school capacity and utilization formula is aligned to the  
9 class size targets in the city school district's class size reduction  
10 plan; and

11 (G) the schools that have made insufficient progress toward achieving  
12 the class size reduction [~~goals outlined~~] targets set forth in the  
13 approved [~~five year~~] class size reduction plan pursuant to subparagraph  
14 (ii) of this paragraph and a detailed description of the actions that  
15 will be taken to reduce class sizes in such schools.

16 [~~Such report shall be submitted to the commissioner on or before~~  
17 ~~November seventeenth, two thousand nine and shall be made available to~~  
18 ~~the public by such date.~~] The report shall be submitted to the commis-  
19 sioner on or before November fifteenth of each year and made available  
20 to the public by such date on the city school district's website. If the  
21 department determines that the November fifteenth report does not demon-  
22 strate sufficient decreases in class size, the department shall issue a  
23 letter making that determination public on its website and the city  
24 school district shall immediately submit a plan for corrective action,  
25 which shall be developed in collaboration with the collective bargaining  
26 units representing the teachers and the principals and signed off on by  
27 the chancellor and the president of each collective bargaining unit. The  
28 city school district's corrective action plan shall also be made avail-  
29 able to the public on the city school district's website upon submission  
30 to the department. The final corrective action plan shall be made avail-  
31 able to the public upon approval by the department. The report shall  
32 also be certified by the state or city comptroller that the city school  
33 district's capital and education funding plans will provide sufficient  
34 space and staffing for the reduction in class size set forth in this  
35 paragraph and, if not, what measures and/or funding should be added to  
36 the plan to achieve such targets.

37 (iv) Provided the commissioner approves and the city school district  
38 remains in compliance with the class size reduction plan, as set forth  
39 herein, the state shall take such compliance into consideration when  
40 determining increases in foundation aid.

41 (v) In addition to the annual reports, the city school district shall  
42 submit a financial impact statement on November fifteenth, two thousand  
43 twenty-four. The financial impact statement may recommend a pause of the  
44 class size reduction plan, but in no event may it result in a roll back  
45 or increase in class sizes.

46 § 4. Paragraph d of subdivision 4 of section 211-d of the education  
47 law, as added by section 12 of part A of chapter 57 of the laws of 2007,  
48 is amended to read as follows:

49 d. [~~For the two thousand seven two thousand eight school year, school~~  
50 ~~districts shall solicit public comment on their contracts for excel-~~  
51 ~~lence.] In a city school district in a city of one million or more in-  
52 habitants, the public process set forth in paragraphs a through c of  
53 this subdivision shall commence no later than thirty days after a state  
54 budget is enacted each year and be completed no later than thirty days  
55 after its commencement. Notice of the public process shall be provided  
56 fifteen days prior to the commencement of the first public hearing and~~

1 shall be posted on the city school district's website as well as trans-  
2 mitted via email to school administrators, parent and teacher organiza-  
3 tions, and elected officials. The proposed plan shall be submitted for  
4 state approval within two weeks following the completion of the public  
5 process. The proposed plan shall be posted on the city school district's  
6 website within twenty-four hours of its submission along with a summary  
7 of the public comments and the city school district's explanation and  
8 reasons for which public comments were incorporated into the proposed  
9 plan and which public comments were not incorporated into the proposed  
10 plan.

11 § 5. Subdivision 5 of section 211-d of the education law, as added by  
12 section 12 of part A of chapter 57 of the laws of 2007, is amended to  
13 read as follows:

14 5. a. Each contract for excellence shall be subject to approval by the  
15 commissioner and his or her certification that the expenditure of addi-  
16 tional aid or grant amounts is in accordance with subdivision two of  
17 this section.

18 b. In a city school district of one million or more inhabitants, upon  
19 approval of the contract for excellence, one-third of the contract for  
20 excellence funds shall be released to the city school district. The  
21 remainder of the funds shall be released to the city school district  
22 upon submission of the November fifteenth report described in subdivi-  
23 sion two of this section, only if such report demonstrates sufficient  
24 reduction in class sizes, and the remainder of the funds shall be  
25 released upon submission by the city school district of the corrective  
26 action plan described in subdivision two of this section. In the years  
27 following a year which required a corrective action plan pursuant to  
28 subdivision two of this section, no contract for excellence funds shall  
29 be provided by the state until and unless such corrective action plan  
30 has been fully implemented.

31 § 6. This act shall take effect immediately; provided that the amend-  
32 ments to paragraph e of subdivision 1 of section 211-d of the education  
33 law made by section one of this act shall take effect on the same date  
34 and in the same manner as section 1 of part A of chapter 56 of the laws  
35 of 2022, takes effect.