

# STATE OF NEW YORK

2171

2023-2024 Regular Sessions

## IN SENATE

January 19, 2023

Introduced by Sens. LIU, MANNION, RYAN -- 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 the appointment of an independent fiduciary upon the dissolution of a charter school

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

1 Section 1. Section 2855 of the education law is amended by adding  
2 three new subdivisions 2-a, 2-b and 2-c to read as follows:

3 2-a. (a) Within thirty days of a final decision, or as soon as practi-  
4 cable thereafter, by a charter entity to revoke, to not renew, or to  
5 acknowledge the expiration or surrender of a charter, the commissioner  
6 may appoint an independent fiduciary to implement the dissolution plan  
7 of such charter school, including the distribution of assets pursuant to  
8 paragraph (t) of subdivision two of section twenty-eight hundred fifty-  
9 one of this article, and shall notify the closing charter school, the  
10 school district of location for the charter school and the school  
11 districts of residence for the charter school in writing of the  
12 appointed independent fiduciary responsible for overseeing the school's  
13 dissolution and closure process.

14 (b) The independent fiduciary may be a non-profit entity, board of  
15 cooperative educational services (BOCES), a school district other than  
16 the school district of location for the charter school or a school  
17 district of residence for pupils of such charter school, or an individ-  
18 ual.

19 (c) The independent fiduciary shall contract with the charter school  
20 and shall be compensated, and shall be reimbursed for reasonable and  
21 necessary expenses incurred as determined by the commissioner. Such  
22 compensation and reimbursement shall be paid by the charter school. The  
23 independent fiduciary shall be entitled to defense and indemnification  
24 by the charter school to the same extent as a charter school employee.  
25 The appointment of an independent fiduciary may be terminated by the

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

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1 commissioner for a violation of law or the commissioner's regulations or  
2 for breach of contract or neglect of duty as determined by the commis-  
3 sioner. In the event that an independent fiduciary's appointment is  
4 terminated by the commissioner, a replacement independent fiduciary  
5 shall be appointed by the commissioner as soon as practicable following  
6 the effective date of such termination.

7 2-b. Notwithstanding any other provision of law to the contrary, the  
8 independent fiduciary shall have the power to review all existing  
9 disbursements and to review, disallow, modify or approve all new  
10 contracts and disbursements of the charter school subsequent to the date  
11 of the fiduciary's appointment, the authority to prepare and file a  
12 petition regarding the disposition of assets and/or a petition for  
13 dissolution on behalf of the charter school's board of trustees, and may  
14 supersede any decision or policy of the charter school that in the sole  
15 judgment of the independent fiduciary conflicts with the school dissol-  
16 ution plan. The independent fiduciary shall, within sixty days follow-  
17 ing the formal dissolution of the charter school, submit a comprehensive  
18 report to the commissioner including information pertaining to the  
19 disposition of assets pursuant to section twenty-eight hundred fifty-one  
20 of this article.

21 2-c. It shall be the duty of the charter school trustees and manage-  
22 ment to fully cooperate with the independent fiduciary. The independent  
23 fiduciary may visit, examine into and inspect any records of such school  
24 under its oversight.

25 § 2. Paragraph h of subdivision 4 of section 1950 of the education law  
26 is amended by adding a new subparagraph 14 to read as follows:

27 (14) To enter into contracts with individual charter schools to serve  
28 as an independent fiduciary pursuant to section twenty-eight hundred  
29 fifty-five of this chapter.

30 § 3. This act shall take effect on the sixtieth day after it shall  
31 have become a law. Effective immediately, the addition, amendment and/or  
32 repeal of any rule or regulation necessary for the implementation of  
33 this act on its effective date are authorized to be made and completed  
34 on or before such effective date.