STATE OF NEW YORK

3393

2023-2024 Regular Sessions

IN SENATE

January 31, 2023

Introduced by Sens. SKOUFIS, BAILEY, BRISPORT, BROUK, COONEY, HARCKHAM, HINCHEY, KENNEDY, MANNION, MATTERA, MAY, RAMOS, RIVERA, 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 establishing school registration and support and assistance for designated schools; and to repeal certain sections of the education law relating thereto

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

Section 1. Sections 211-a, 211-b, and 211-f of the education law are REPEALED and a new section 211-a is added to read as follows:

§ 211-a. School registration and support and assistance for designated schools. 1. Registration of public schools. All public schools in the state shall be registered by the board of regents, provided, however, that charter schools shall not be subject to registration pursuant to this section, but shall be held accountable for meeting or exceeding the student performance standards and student assessment requirements applicable to other public schools in accordance with the provisions of article fifty-six of this chapter. Once registered, a school district shall not close, merge, split, change the grade configuration, or substantially change the enrollment of the registered school without the prior consent of the commissioner. The commissioner shall deny or require modifications to a request only where approving the request shall have a demonstrable and substantial negative impact on the learning environment for students.

2. Annual determination of school need for support and assistance. The commissioner shall determine annually whether each public school is in need of additional support and assistance based on multiple measures, including academic and non-academic measures, as determined by the commissioner.

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

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3. Identification of schools for additional support and assistance. If based on the annual determination, pursuant to subdivision two of this section, the commissioner determines that a school would benefit from additional support and assistance based on academic performance and other measures, the commissioner may designate the school for additional support and assistance. Each school identified under this subdivision shall develop an improvement plan to address the identified academic performance and other measures. Such plan shall be developed in consultation with a community engagement team appointed in accordance with subdivision thirteen of this section, in such form and in accordance with such format as may be prescribed by the commissioner, and approved by the board of education or chancellor, in a school district in a city of one million or more inhabitants, by such date as the commissioner may establish.

4. Identification of schools for intensive support and assistance. If based on the annual determination, pursuant to subdivision two of this section, a school is among those in the state as determined by the commissioner that would most benefit from intensive support and assistance, the commissioner may designate the school for intensive support and assistance. Each school identified under this subdivision shall develop an improvement plan to address the identified academic performance and other measures. Such plan shall be developed in consultation with a community engagement team appointed in accordance with subdivision thirteen of this section, in such form and in accordance with such format as may be prescribed by the commissioner, and approved by the board or education or chancellor, in a school district in a city of one million or more inhabitants, by such date as the commissioner may establish.

5. Alignment of federal and state accountability requirements. To the greatest extent practicable, the commissioner shall align the process for identification of schools for additional support and assistance and intensive support and assistance and the actions that are required to be taken as a result of such identifications with the state's plan approved by the United States secretary of education for meeting the requirements of section one thousand one hundred eleven of the elementary and secondary education act of nineteen hundred sixty-five, as amended, and the federal regulations implementing such statute.

6. Demonstrable improvement targets for selected intensive support and assistance schools. The commissioner shall assign school demonstrable improvement targets to a school that:

a. is determined by the commissioner to be farthest from state standards upon the school's initial identification for intensive support and assistance.

b. has remained identified for intensive support and assistance for three consecutive years.

7. Removal of schools from designation. The commissioner shall establish performance targets for schools identified as in need of additional support and assistance pursuant to subdivision three of this section or intensive support and assistance pursuant to subdivision four of this section. Schools that achieve their performance targets shall be removed from their designation.

8. Educational support specialist. a. If a school is unable to make demonstrable improvement, as determined by the commissioner, the commissioner may appoint an educational support specialist to provide support and assistance to the school and district in implementing the school's improvement plan. The educational support specialist shall have:

(i) either:

(A) New York state certification as a school district administrator, school district leader or a substantially equivalent certification, as determined by the commissioner, issued by a jurisdiction outside the state; or

(B) a doctorate in education, doctorate in philosophy in education or other comparable advanced degree and a minimum of five years working directly in low performing districts or dramatically raising the achievement of high needs students in moderate to high performing districts;

(ii) experience as a principal assistant superintendent, deputy superintendent, superintendent, or comparable administrator in a school district, charter school, BOCES or a nonprofit educational organization within the past three years or, where applicable, within the immediately preceding three years from the date of appointment as an educational support specialist;

(iii) demonstrated an ability to successfully work with at risk populations in closing achievement gaps; and

(iv) experience in school turnaround and sustaining the academic success of at risk students.

b. The educational support specialist shall be neither a current employee of the school district nor be permitted to do other compensated work for the school district without the approval of the commissioner. The educational support specialist shall be appointed by and serve at the pleasure of the commissioner. The commissioner shall establish the rate of compensation for the educational support specialist to be paid by the school district. Such compensation may not exceed the salary of the school district's superintendent except in extraordinary circumstances which shall be outlined by the commissioner to the board of education. The educational support specialist shall be entitled to defense and indemnification by the school district to the same extent as a school district employee. The contract between the educational support specialist and the school district shall be subject to approval by the commissioner.

(i) The educational support specialist shall:

(A) Support and assist the school in implementing an improvement plan for such school working with the district administration and the community engagement team.

(B) Annually report to the board of education or chancellor, in a school district in a city of one million or more inhabitants, and to the commissioner on findings and recommendations regarding the school's implementation of its improvement plan. Subject to the provisions of a district's collective bargaining agreements, the educational support specialist may recommend that the district take the following actions regarding the school and provide a rationale for why these changes will assist the school in meeting demonstrable improvement targets:

(1) expand, alter, or replace the curriculum and program offerings;

(2) replace principals and assistant principals who the educational support specialist determines are unable or unwilling to implement the school's improvement plan;

(3) increase the budget, subject to the availability of funds, or reallocate the uses of the existing budget of the school;

(4) expand the school day, or school year, or both;

(5) for a school that offers first grade, add pre-kindergarten and full-day kindergarten classes, if the school does not already have such classes; and

(6) expand, alter, or replace the professional development program for school staff, with an emphasis on strategies that involve teacher input and feedback.

(ii) Upon receipt of any recommendations from the educational support specialist, the board of education, or chancellor, in a school district in a city of one million or more inhabitants working with the community engagement team, shall either take such actions as are necessary to implement the recommendations or provide a written explanation to the commissioner of its reasons for not implementing such recommendations. No recommendations may be adopted by the school district that alters the collective bargaining agreement without the approval of the affected collective bargaining unit. The commissioner shall review the educational support specialist's report and either direct the district to take the actions recommended by the educational support specialist and any other actions that the commissioner deems appropriate or, if the written explanation provided by the district has merit, as determined by the commissioner, excusing the district from such recommendations.

9. Disagreement with preliminary determination. Prior to designating a school as needing additional support and assistance pursuant to subdivision three of this section, intensive support and assistance pursuant to subdivision four of this section, placing the school under registration review pursuant to subdivision ten of this section, or making a determination that a school has been unable to make annual progress or demonstrable improvement, the commissioner shall notify the district of their preliminary determination and offer the district an opportunity to disagree in writing before they make a final determination in regard to the school.

10. Placement of schools under registration review. If, after three school years from the commissioner assigning the school demonstrable improvement targets, the commissioner determines that a school has been unable to make demonstrable improvement, the commissioner shall place the school's registration under review, unless the commissioner finds there are extenuating or extraordinary circumstances that warrant providing the school with more time to achieve such demonstrable improvement targets. Notwithstanding any other provisions of this section, the commissioner shall not place under registration review schools within a special act school district as defined in subdivision eight of section four thousand one of this chapter.

11. Public notification. a. Upon placing the registration of a school under review pursuant to subdivision ten of this section, the commissioner shall notify the board of education or chancellor, in a school district in a city of one million or more inhabitants, that the school has been placed under registration review, and that the school is at risk of having its registration revoked. Upon receipt of such notification, the board of education, or chancellor, in a school district in a city of one million or more inhabitants, shall take appropriate action to notify the general public and school community of the issuance of such notification pursuant to commissioner's regulations and provide information on the school district's plan to improve the school's performance.

b. Each year that a school remains under registration review, the school district shall offer parents an opportunity to enroll their children in a different registered school operated by the school district in which seats in the same grade as the child will attend the following school year are available. Districts shall adopt such enrollment policies as are necessary to give priority to parents who wish to transfer

their child from a school that has been placed under registration review.

12. Registration review team. Upon the placement of a school's registration under review pursuant to subdivision ten of this section, the commissioner, after consultation with the school district, shall assign a registration review team. The registration review team shall conduct resource and program and planning audits and examine the quality of curriculum, instructional plans, and teaching in the school, the learning opportunities and support services available to students, and the organization and operations of the school. After such review the team shall provide diagnostic recommendations for school improvement, which may include administrative and operational improvements. The superintendent shall consider the recommendation of the team for inclusion in the school improvement plan. The superintendent shall provide annually a report to the commissioner on the school's progress on the implementation of the improvement plan.

13. Community engagement team. Upon identification of a school for additional support and assistance, intensive support and assistance or designation of a school for registration review pursuant to subdivision ten of this section, the district shall establish a community engagement team, which shall include community stakeholders, including but not limited to the school principal, parents and guardians, teachers and other school staff and students. Membership of teachers and other school staff on such team shall be based upon the recommendation of the respective collective bargaining unit. Membership of such team may be modified by the district at any time. Such team shall develop recommendations for improvement of the school and shall solicit input through public engagement. The community engagement team shall present its recommendations periodically to the school leadership and, as applicable, the educational support specialist.

14. Required actions resulting from schools placed under registration review. The commissioner may require school board members to undergo conflict resolution training and up to fifteen hours of professional development annually to support the implementation of a school improvement plan for any school that has been placed under registration review pursuant to subdivision ten of this section.

15. Removal from registration review. Schools placed under registration review that make demonstrable improvement, as determined by the commissioner, for two consecutive years, or that are removed from designation as intensive support and assistance schools, shall be removed from registration review.

16. Inability to make demonstrable improvement while under registration review. a. If, after two full school years under registration review, the commissioner determines that the school is unable to make demonstrable improvement in meeting performance targets established by the commissioner, the commissioner shall require the district to take one of the following actions:

(i) Enter into a contract to have the school be managed by an educational partnership organization pursuant to section two hundred eleven-c of this part;

(ii) Close or phase out the school in accordance with a plan, which may include the opening of a replacement school, approved by the commissioner. In the event that a school district seeks to open a school to replace a closing or phasing out school, the commissioner may assign an educational support specialist to oversee the opening of a new school. The assignment of the educational support specialist may be continued

until the school has for two consecutive years met performance targets established by the commissioner.

b. A school shall be removed from registration review status upon an educational partnership organization, entering into a contract to operate the school pursuant to this subdivision but shall be designated as an intensive support and assistance school and shall be given demonstrable improvement targets.

c. The commissioner may provide schools more time to demonstrate demonstrable improvement upon a finding that there are extraordinary or extenuating circumstances that warrant such an extension, as the commissioner determines.

17. Establishment of a community school. A community school model shall be implemented in any school which is managed by an educational partnership organization, pursuant to subdivision sixteen of this section.

18. Revocation of registration. If a school district fails to take one of the actions pursuant to paragraph a of subdivision sixteen of this section, the commissioner may designate the school as an unacceptable learning environment, revoke the registration of the school, and cause the district to implement a plan for the education of the students who attend such school. Before taking such action, the commissioner shall offer the school district an opportunity to provide justification for why the commissioner should not take such actions, in a timeframe prescribed by the commissioner. No school district may operate a public school whose registration has been revoked pursuant to this subdivision.

19. Collective bargaining agreements. Notwithstanding any other provision of law, rule, or regulation to the contrary, all collective bargaining agreements entered into after July first, two thousand twenty-four shall be consistent with the requirements of this section, unless the agreement relates to the two thousand twenty-three--two thousand twenty-four school year only. Nothing in this section shall be construed to abrogate any conflicting provisions of any collective bargaining agreement in effect on July first, two thousand twenty-four during the term of such agreement and until the entry into a successor collective bargaining agreement, provided that notwithstanding any other provision of law to the contrary, upon expiration of such term and the entry into a successor collective bargaining agreement the provisions of this section shall apply; provided however no school district shall adopt an improvement plan in conflict with the district collective bargaining agreement without receiving approval from the affected collective bargaining unit.

20. Schools in receivership. All schools that were in receivership in the two thousand twenty-three--two thousand twenty-four school year pursuant to the former section two hundred eleven-f of this part and are designated for intensive support and assistance in the two thousand twenty-four--two thousand twenty-five school year pursuant to subdivision four of this section shall be placed under registration review pursuant to subdivision eight of this section.

21. Regulations. The commissioner shall promulgate regulations to implement the provisions of this section.

§ 2. Subdivision 3 of section 211-c of the education law, as added by section 1 of part A of chapter 57 of the laws of 2007, is amended to read as follows:

3. The commissioner may appoint a distinguished educator to a school district[~~;~~

~~a.~~] when such district or a school within such district has failed to achieve adequate yearly progress for four or more years[~~;~~

~~b. as a member of a joint school intervention team pursuant to paragraph b of subdivision two of section two hundred eleven-b of this part~~].

§ 3. This act shall take effect July 1, 2024. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.