STATE OF NEW YORK

6112

2023-2024 Regular Sessions

IN ASSEMBLY

April 3, 2023

Introduced by M. of A. FORREST -- read once and referred 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:

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

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

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

(c) The independent fiduciary shall contract with the charter school and shall be compensated, and shall be reimbursed for reasonable and necessary expenses incurred as determined by the commissioner. Such compensation and reimbursement shall be paid by the charter school. The independent fiduciary shall be entitled to defense and indemnification by the charter school to the same extent as a charter school employee. 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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commissioner for a violation of law or the commissioner's regulations or for breach of contract or neglect of duty as determined by the commissioner. In the event that an independent fiduciary's appointment is terminated by the commissioner, a replacement independent fiduciary shall be appointed by the commissioner as soon as practicable following the effective date of such termination.

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

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

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

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

§ 3. This act shall take effect on the sixtieth day after it shall have become a law. 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.