STATE OF NEW YORK

9849

IN ASSEMBLY

April 12, 2024

Introduced by M. of A. BENEDETTO -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to annual professional performance reviews of teachers and principals; and to repeal section 3020-b of the education law relating to streamlined removal procedures for teachers rated ineffective

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

Section 1. Paragraphs a and b of subdivision 1 of section 2-d of the education law, as added by section 1 of subpart L of part AA of chapter 56 of the laws of 2014, are amended to read as follows:

a. "Building principal" means a building principal subject to annual performance evaluation review under the provisions of section three thousand twelve-c**, section three thousand twelve-d, or section three thousand twelve-e** of this chapter.

b. "Classroom teacher" means a teacher subject to annual performance evaluation review under the provisions of section three thousand twelve-c**, section three thousand twelve-d, or section three thousand twelve-e** of this chapter.

§ 2. Subparagraph ii of paragraph (a) of subdivision 1 and paragraph b of subdivision 2 of section 2509 of the education law, as amended by chapter 201 of the laws of 2022, are amended to read as follows:

ii. Notwithstanding any other provision of law or regulation to the contrary, 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 three 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 substitute for a period of **up to** two years [~~**and, if a classroom teacher, has received composite annual professional performance review ratings in each of those years**~~], or **such teacher** has rendered satisfactory service as a seasonally licensed per session teacher of swimming in day schools who has served in that capacity for a period of **up to** two years and has

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

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been appointed to teach the same subject in day schools on an annual salary, the teacher shall be appointed for a probationary period of **a minimum of** two years**, depending upon the length of the regular substitute service that shall shorten the length of the probationary period**; provided, however, that in the case of a teacher who has been appointed on tenure 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 chapter, the teacher shall be appointed for a probationary period of three years[~~; provided that the teacher demonstrates that he or she received an annual professional performance review rating pursuant to section three thousand twelve-c or section three thousand twelve-d of this chapter in his or her final year of service in such other school district or board of cooperative educational services. Provided further, however, that in the case of a teacher who has been appointed for a probationary period during the two thousand twenty--two thousand twenty-one, the two thousand twenty-one--two thousand twenty-two or the two thousand twenty-two--two thousand twenty-three school year and who has been appointed on tenure in another school district within the state, the school district where currently employed, board of cooperative educational services or state school for the blind or deaf and who was not dismissed from such district, board or state school for the blind or deaf as a result of charges brought pursuant to subdivision one of section three thousand twenty-a or section three thousand twenty-b of this chapter, such teacher shall be appointed for a probationary period of three years; provided that, in the case of a classroom teacher, such teacher demonstrates that he or she received an annual professional performance review rating pursuant to section three thousand twelve-c or section three thousand twelve-d of this chapter in the two thousand seventeen--two thousand eighteen or two thousand eighteen--two thousand nineteen school year in such other school district, board of cooperative educational services or state school for the blind or deaf~~]. The service of a person appointed to any of such positions may be discontinued at any time during such probationary 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~~] **such person's** probationary period.

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 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 rating for the two thousand nineteen--two thousand twenty, two thousand twenty--two thousand twenty-one or the two thousand twenty-one--two thousand twenty-two school 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-one--two thousand 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 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~~] **Any person who has acquired tenure** shall**, upon such person's effective tenure date,** hold their [~~respective positions~~] **position** 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 and 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.

§ 3. Subparagraphs i and ii of paragraph (a) of subdivision 1 of section 2573 of the education law, subparagraph i as amended by section 3 of subpart D of part EE of chapter 56 of the laws of 2015, and subparagraph ii as amended by chapter 201 of the laws of 2022, are amended to read as follows:

i. Teachers and all other members of the teaching staff, appointed prior to 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 three years, except that in the case of a teacher who has rendered satisfactory service as a regular substitute for a period of two years or as a seasonally licensed per session teacher of swimming in day schools who has served in that capacity for a period of two years and has been appointed to teach the same subject in day schools on an annual salary, the probationary period shall be limited to one year; provided, however, that in the case of a teacher who has been appointed on tenure 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 chapter, the probationary period shall not exceed two years; provided, however, that in cities with a population of one million or more, a teacher appointed under a newly created license, for teachers of reading and of the emotionally handicapped, to a position which the teacher has held for at least two years prior to such appointment while serving on tenure in another license area who was not dismissed as a result of charges brought pursuant to subdivision one of section three thousand twenty-a [~~or section three thousand twenty-b~~] of this chapter, the probationary period shall be one year. The service of a person appointed to any of such positions may be discontinued at any

time during such probationary 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 or her~~] **such person's** probationary period. In city school districts having a population of four hundred thousand or more, persons with licenses obtained as a result of examinations announced subsequent to the twenty-second day of May, nineteen hundred sixty-nine appointed upon conditions that all announced requirements for the position be fulfilled within a specified period of time, shall not acquire tenure unless and until such requirements have been completed within the time specified for the fulfillment of such requirements, notwithstanding the expiration of any probationary period. In all other city school districts subject to the provisions of this article, failure to maintain certification as required by this article and by the regulations of the commissioner shall be cause for removal within the meaning of subdivision five of this section.

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 substitute for a period of **up to** two years [~~and, if a classroom teacher, has received annual professional performance review ratings in each of those years~~], or **such teacher** has rendered satisfactory service as a seasonally licensed per session teacher of swimming in day schools who has served in that capacity for a period of **up to** two years and has been appointed to teach the same subject in day schools on an annual salary, the teacher shall be appointed for a probationary period of **a minimum of** two years**, depending upon the length of the regular substitute service that shall shorten the length of the probationary period**; provided, however, that in the case of a teacher who has been appointed on tenure 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 chapter, 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 an annual professional performance review rating pursuant to section three thousand twelve-c or section three thousand twelve-d of this chapter in his or her final year of service in such other school district or board of cooperative educational services; provided, however, that, in the case of a classroom teacher who has been appointed for a probationary period during the two thousand twenty--two thousand twenty-one, the two thousand twenty-one--two thousand twenty-two or the two thousand twenty-two--two thousand twenty-three school year and who has been appointed on tenure in another school district within the state, the school district where currently employed, board of cooperative educational services or state school for the blind or deaf, and who was not dismissed from such district, board or state school for the blind or deaf as a result of charges brought pursuant to section three thousand twenty-a or section three thousand twenty-b of this chapter, such teacher shall be appointed for a probationary period of three years; provided~~

~~that, in the case of a classroom teacher, such teacher demonstrates that he or she received an annual professional performance review rating pursuant to section three thousand twelve-c or section three thousand twelve-d of this chapter in the two thousand seventeen--two thousand eighteen or two thousand eighteen--two thousand nineteen school year in such other school district, board of cooperative educational services or state school for the blind or deaf~~]; provided further, however, that in cities with a population of one million or more, a teacher appointed under a newly created license, for teachers of reading and of the emotionally handicapped, to a position which the teacher has held for at least two years prior to such appointment while serving on tenure in another license area who was not dismissed as a result of charges brought pursuant to subdivision one of section three thousand twenty-a [~~or section three thousand twenty-b~~] of this chapter, the teacher shall be appointed for a probationary period of two years. The service of a person appointed to any of such positions may be discontinued at any time during such probationary 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 or her~~] **such person's** probationary period. In all city school districts subject to the provisions of this article, failure to maintain certification as required by this article and by the regulations of the commissioner shall be cause for removal within the meaning of subdivision five of this section.

§ 4. Subdivisions 5 and 6 of section 2573 of the education law, as amended by section 3 of subpart D of part EE of chapter 56 of the laws of 2015, paragraph (b) of subdivision 5 and paragraph (b) of subdivision 6 as amended by chapter 201 of the laws of 2022, are amended to read as follows:

5. (a) At the expiration of the probationary term of any persons appointed for such term prior to 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. Such persons and all others employed in the teaching, service of the schools of a city, who have served the full probationary period, 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.

(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 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, two thousand twenty--two thousand twenty-one or the two thousand twenty-one--two thousand twenty-two school 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-one--two thousand 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 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 and/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. 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~~]. Any person who has acquired tenure shall, upon such person's effective tenure date, hold their [~~respective positions~~] position 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 and 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.

6. (a) In a city having a population of four hundred thousand or more, at the expiration of the probationary term of any persons appointed for such term prior to 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 satisfactory, and such board of education shall immediately thereafter issue to such persons permanent certificates of appointment. Such persons and all others employed in the teaching service of the schools of such city, who have served the full probationary period shall receive permanent certificates to teach issued to them by the certificating authority, except as otherwise provided in subdivision ten-a of this section, and shall hold their respective positions during good behavior and satisfactory teaching 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.

(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 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, two thousand twenty-one--two thousand twenty-one or the two thousand twenty-one--two thousand twenty-two school 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 a composite 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-one--two thousand 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 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 receives an effective and/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. 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~~]. Any person who has acquired tenure shall, upon such person's effective tenure date, hold their [~~respective positions~~] position 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 and 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.

§ 5. Section 3012 of the education law, as amended by section 4 of subpart D of part EE of chapter 56 of the laws of 2015, subparagraph ii of paragraph (a) of subdivision 1 and paragraph (b) of subdivision 2 as amended by chapter 201 of the laws of 2022, and subparagraph ii of paragraph (b) of subdivision 1 as amended by chapter 345 of the laws of 2019, is amended to read as follows:

§ 3012. Tenure: certain school districts. 1. (a) i. Teachers and all other members of the teaching staff of school districts, including common school districts and/or school districts employing fewer than eight teachers, other than city school districts, who are appointed prior to July first, two thousand fifteen, shall be appointed by the board of education, or the trustees of common school districts, upon the recommendation of the superintendent of schools, for a probationary period of three years, except that in the case of a teacher who has rendered satisfactory service as a regular substitute for a period of two years or as a seasonally licensed per session teacher of swimming in day schools who has served in that capacity for a period of two years and has been appointed to teach the same subject in day schools, on an annual salary, the probationary period shall be limited to one year; provided, however, that in the case of a teacher who has been appointed on tenure 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 probationary period shall not exceed two years. The service of a person appointed to any of such positions may be discontinued at any time during such probationary period, on the recommendation of the superintendent of schools, by a majority vote of the board of education or the trustees of a common school district.

ii. Teachers and all other members of the teaching staff of school districts, including common school districts and/or school districts employing fewer than eight teachers, other than city school districts, who are appointed on or after July first, two thousand fifteen, shall be appointed by the board of education, or the trustees of common school districts, 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 substitute for a period of up to two years [~~and, if a classroom teacher, has received~~

~~annual professional performance review ratings in each of those years,~~] or **such teacher** has rendered satisfactory service as a seasonally licensed per session teacher of swimming in day schools who has served in that capacity for a period of **up to** two years and has been appointed to teach the same subject in day schools, on an annual salary, the teacher shall be appointed for a probationary period of **a minimum of** two years**, depending upon the length of the regular substitute service that shall shorten the length of the probationary period**; provided, however, that in the case of a teacher who has been appointed on tenure 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 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 an annual professional performance review rating pursuant to section three thousand twelve-c or section three thousand twelve-d of this chapter in his or her final year of service in such other school district or board of cooperative educational services. Provided further, however, that in the case of a teacher who has been appointed for a probationary period during the two thousand twenty--two thousand twenty one, the two thousand twenty one--two thousand twenty-two or the two thousand twenty-two--two thousand twenty-three school year and who has been appointed on tenure in another school district within the state, the school district where currently employed, board of cooperative educational services or state school for the blind or deaf and who was not dismissed from such district, board or state school for the blind or deaf 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, such teacher shall be appointed for a probationary period of three years; provided that, in the case of a classroom teacher, such teacher demonstrates that he or she received an annual professional performance review rating pursuant to section three thousand twelve-c or section three thousand twelve-d of this article in the two thousand seventeen--two thousand eighteen or two thousand eighteen--two thousand nineteen school year in such other school district, board of cooperative educational services or state school for the blind or deaf~~]. The service of a person appointed to any of such positions may be discontinued at any time during such probationary period, on the recommendation of the superintendent of schools, by a majority vote of the board of education or the trustees of a common school district.

(b) i. Principals, administrators, supervisors and all other members of the supervising staff of school districts, including common school districts and/or school districts employing fewer than eight teachers, other than city school districts, who are appointed prior to July first, two thousand fifteen, shall be appointed by the board of education, or the trustees of a common school district, upon the recommendation of the superintendent of schools for a probationary period of three years. The service of a person appointed to any of such positions may be discontinued at any time during the probationary period on the recommendation of the superintendent of schools, by a majority vote of the board of education or the trustees of a common school district.

ii. Principals, administrators, supervisors and all other members of the supervising staff of school districts, including common school districts and/or school districts employing fewer than eight teachers,

other than city school districts, who are appointed on or after July first, two thousand fifteen, shall be appointed by the board of education, or the trustees of a common school district, upon the recommendation of the superintendent of schools for a probationary period of four years; provided, however, 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. The service of a person appointed to any of such positions may be discontinued at any time during the probationary period on the recommendation of the superintendent of schools, by a majority vote of the board of education or the trustees of a common school district.

(c) Any person previously appointed to tenure or a probationary period pursuant to the provisions of former section three thousand thirteen of this article shall continue to hold such position and be governed by the provisions of this section notwithstanding any contrary provision of law.

2. (a) At the expiration of the probationary term of a person appointed for such term prior to July first, two thousand fifteen, subject to the conditions of this section, the superintendent of schools shall make a written report to the board of education or the trustees of a common school district recommending for appointment on tenure those persons who have been found competent, efficient and satisfactory. Such persons, and all others employed in the teaching service of the schools of such union free school district, common school district and/or school district employing fewer than eight teachers, who have served the probationary period as provided in this section, shall hold their respective positions during good behavior and efficient and competent service, and shall not be removed except for any of the following causes, after a hearing, as provided by section three thousand twenty-a [~~or section three thousand twenty-b~~] of this article: [~~(a)~~] **(i)** insubordination, immoral character or conduct unbecoming a teacher; [~~(b)~~] **(ii)** inefficiency, incompetency, physical or mental disability, or neglect of duty; [~~(c)~~] **(iii)** failure to maintain certification as required by this chapter and by the regulations of the commissioner. 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~~] **such person's** probationary period.

(b) At the expiration of the probationary term of a person appointed for such term on or after July first, two thousand fifteen, subject to the conditions of this section, the superintendent of schools shall make a written report to the board of education or the trustees of a common school district 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 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 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 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 article, 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, two thousand twenty--two thousand twenty-one or the two thousand twenty-one--two thousand twenty-two school 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-one--two thousand 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 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~~]. **Any person who has acquired tenure** shall**, upon such person's effective tenure date,** hold their [~~respective positions~~] **position** 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 and 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. Notwithstanding any other provision of this section no period in any school year for which there is no required service and/or for which no compensation is provided shall in any event constitute a break or suspension of probationary period or continuity of tenure rights of any of the persons hereinabove described.

§ 6. Subdivisions 1, 11, and 17 of section 3012-d of the education law, subdivisions 1 and 11 as added by section 2 of subpart E of part EE of chapter 56 of the laws of 2015, and subdivision 17 as amended by chapter 201 of the laws of 2022, are amended to read as follows:

1. General provisions. Notwithstanding any other provision of law, rule or regulation to the contrary, the annual teacher and principal evaluations (hereinafter, evaluations) implemented by districts shall be conducted in accordance with the provisions of this section. Such annual evaluations shall be a significant factor for employment decisions including but not limited to, promotion, retention, tenure determination, termination, and supplemental compensation. Such evaluations shall also be a significant factor in teacher and principal development including but not limited to coaching, induction support, and differentiated professional development. **Provided, however, that for the two thousand twenty-four--two thousand twenty-five school year and thereafter, school districts and boards of cooperative educational services may conduct annual professional performance reviews pursuant to section three thousand twelve-e of this article. In such case, the provisions of this section shall not be applicable. Provided, however, annual teacher and principal evaluation plans adopted pursuant to this section shall not be applicable after the two thousand thirty-one--two thousand thirty-two school year.**

11. [~~Notwithstanding any inconsistent provision of law, no school district shall be eligible for an apportionment of general support for public schools from the funds appropriated for the 2015--2016 school year and any year thereafter in excess of the amount apportioned to such school district in the respective base year unless such school district has submitted documentation that has been approved by the commissioner by November fifteenth, two thousand fifteen, or by September first of each subsequent year, demonstrating that it has fully implemented the standards and procedures for conducting annual teacher and principal evaluations of teachers and principals in accordance with the requirements of this section and the regulations issued by the commissioner. Provided further that any apportionment withheld pursuant to this section shall not occur prior to April first of the current year and shall not have any effect on the base year calculation for use in the subsequent school year. For purposes of this section, "base year" shall mean the base year as defined in paragraph b of subdivision one of section thirty-six hundred two of this chapter, and "current year" shall mean the current year as defined in paragraph a of subdivision one of section thirty-six hundred two of this chapter~~] Each school district or board of cooperative educational services, as applicable, shall certify by September first of each year that their school district or board of cooperative educational services has a teacher and principal evaluation plan that is in compliance with the requirements of this section or a performance review plan that is in compliance with the requirements of section three thousand twelve-e of this article, as applicable, and that the district or board of cooperative educational services conducted evaluations in accordance with their most recently approved plan during the preceding school year. Provided, however, that a school district or board of cooperative educational services may only have an approved teacher and principal evaluation plan pursuant to this section until June thirtieth, two thousand thirty-two.

17. Notwithstanding any other provision of this section, for the two thousand twenty--two thousand twenty-one 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~~].

§ 7. The education law is amended by adding a new section 3012-e to read as follows:

§ 3012-e. Teacher and principal performance review plans. 1. Notwithstanding any other provision of law, rule, or regulation to the contrary, for the annual professional performance reviews related to the two thousand twenty-four--two thousand twenty-five school year and thereafter, a school district or board of cooperative educational services shall conduct performance reviews of classroom teachers and building principals in accordance with the provisions of this section or section three thousand twelve-d of this article, as applicable. Provided that all school districts and boards of cooperative educational services shall adopt a performance review plan pursuant to this section no later than June thirtieth, two thousand thirty-two and such plan shall be used to complete performance reviews of classroom teachers and building principals no later than the two thousand thirty-two--two thousand thirty-three school year. Performance review plans developed pursuant to this section shall be the result of reaching a collectively bargained agree-

ment negotiated pursuant to article fourteen of the civil service law where a recognized employee organization exists.

2. Nothing herein shall require modification of an existing teacher and principal evaluation plan approved by the commissioner pursuant to section three thousand twelve-d of this article and all teacher and principal evaluation plans approved by the commissioner pursuant to the provisions of section three thousand twelve-d of this article shall not be affected by the provisions of this section on or before June thirtieth, two thousand thirty-two; provided, however, that when a school district or board of cooperative educational services adopts a performance review plan pursuant to this section, the school district or board of cooperative educational services shall notify the department and submit the new plan to the department for review on a form and in a manner prescribed by the commissioner. Provided further that, prior to June thirtieth, two thousand thirty-two, a teacher and principal evaluation plan may still be adopted or modified pursuant to section three thousand twelve-d of this article consistent with the provisions of such section.

3. The performance reviews conducted pursuant to this section shall be a significant factor in teacher and principal development, including but not limited to coaching, induction support, and differentiated professional development for all teachers and principals.

4. (a) A school board or board of cooperative educational services shall make its most recently adopted and reviewed plan pursuant to this section available on the school district or board of cooperative educational services' website.

(b) On an annual basis, each school district and board of cooperative educational services shall submit to the commissioner the ratings for each classroom teacher and building principal on each applicable teaching or leadership standard, as well as the overall rating for each teacher and principal, where available, on a form and in a manner prescribed by the commissioner. Such data shall be collected and used to the extent necessary to comply with any applicable state and federal statutory requirements.

(c) The commissioner and each school district and board of cooperative educational services shall ensure that any release to the public of data collected pursuant to this section, or any other data that is used as a component of performance reviews, does not include personally identifying information for any classroom teacher or building principal; provided, however, that each school district or board of cooperative educational services shall fully disclose and release to the parents or legal guardians of a student the most recent performance review rating received for each of the teachers and for the principal of the school building to which the student is assigned for the current school year consistent with paragraph b of subdivision ten of section three thousand twelve-c of this article.

(d) Performance reviews of individual classroom teachers and building principals shall not be subject to disclosure pursuant to article six of the public officers law.

5. (a) Performance review plans developed pursuant to this section shall:

(i) include the criteria by which all classroom teachers and building principals shall be reviewed and a description of the review procedures;

(ii) address each state teaching and educational leadership standard, as developed or adopted by the commissioner;

(iii) consist of multiple measures; provided, however, that one measure shall be classroom observations of classroom teachers and school visits of building principals. The plan shall describe the number and frequency of observations; provided that nothing herein shall be construed to require that all classroom teachers or building principals have the same number or frequency of observations.

(iv) provide the classroom teacher or building principal with timely, actionable feedback on their practice based on the information collected as part of the performance review;

(v) assign ratings on each applicable teaching or educational leadership standard and an overall rating of Level 4, Level 3, Level 2, or Level 1 consistent with the following requirements:

(1) Level 1 shall indicate performance significantly below a school district's or board of cooperative educational services' expectations aligned to teaching or educational leadership standards;

(2) Level 2 shall indicate performance that partially meets a school district's or board of cooperative educational services' expectations aligned to teaching or educational leadership standards;

(3) Level 3 shall indicate performance that meets a school district's or board of cooperative educational services' expectations aligned to teaching or educational leadership standards; and

(4) Level 4 shall indicate performance that exceeds a school district's or board of cooperative educational services' expectations aligned to teaching or educational leadership standards;

(vi) ensure that it is possible for a classroom teacher or building principal to obtain each rating on each teaching or educational leadership standard and as an overall rating. The process by which ratings are assigned shall be transparent and available to those being rated prior to the start of the school year, to the extent practicable; and

(vii) include a process for each classroom teacher and building principal to receive formal support for professional growth each year, provided that teachers and principals who receive an overall rating of Level 1 or 2 shall have a personalized professional development plan, developed by the school district or board of cooperative educational services, consistent with a locally determined growth goal setting process.

(b) One measure may be used to address more than one teaching or educational leadership standard provided that the performance review includes multiple measures.

(c) Performance reviews conducted pursuant to this section may assess a subset of the teaching and educational leadership standards in a given year; provided, however, that probationary classroom teachers and building principals shall be rated on each teaching or educational leadership standard annually.

(d) Nothing in this section shall be construed to require all classroom teachers or building principals to be evaluated based on the same measures or to receive an overall rating annually; provided, however, that at a minimum, probationary teachers and principals shall receive a rating on each teaching or educational leadership standard and an overall rating annually, while other teachers and principals may have a differentiated performance review process that does not culminate in an overall rating annually. Provided, further, that nothing herein shall be construed to prohibit or prevent any other teachers and principals from receiving an overall rating annually.

6. The school district or board of cooperative educational services, as applicable, shall ensure that all classroom teachers and building

principals as well as any individual who conducts all or part of a performance review receive appropriate training consistent with the regulations of the commissioner and shall ensure that each teacher and principal who is reviewed in accordance with this section has the opportunity to provide written comment on their performance review in addition to any collectively bargained teacher and principal performance review grievance or appeal procedures.

7. Nothing in this section shall be construed to affect the unfettered statutory right of a school district or board of cooperative educational services, as applicable, to terminate a probationary classroom teacher or principal for any statutorily and constitutionally permissible reasons.

8. Performance review plans developed pursuant to this section shall be submitted to the commissioner on a form and in a manner prescribed by the commissioner. The commissioner shall review such plan to determine compliance with the requirements of this section. If the commissioner determines that the submitted plan is not in compliance with this section, the plan shall be returned to the school district or board of cooperative educational services for revision. Such revisions shall be resolved through collective bargaining, to the extent required under article fourteen of the civil service law. The plan most recently accepted by the commissioner pursuant to this section shall remain in effect until a subsequent plan is agreed to by the parties and reviewed by the commissioner to determine compliance with the requirements of this section. Each school district and board of cooperative educational services shall certify annually to the commissioner that they have fully implemented the plan most recently accepted by the commissioner.

§ 8. Section 3014 of the education law, as amended by section 5 of subpart D of part EE of chapter 56 of the laws of 2015, paragraph (b) of subdivision 1 and paragraph (b) of subdivision 2 as amended by chapter 201 of the laws of 2022, is amended to read as follows:

§ 3014. Tenure: boards of cooperative educational services. 1. (a) Administrative assistants, supervisors, teachers and all other members of the teaching and supervising staff of the board of cooperative educational services appointed prior to 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 three 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 subdivision one of section three thousand twenty-a [~~or section three thousand twenty-b~~] of this article, the probationary period shall not exceed two years. Services of a person so appointed to any such positions may be discontinued at any time during such probationary period, upon the recommendation of the district superintendent, by a majority vote of the board of cooperative educational services.

(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 probationary period during the two thousand twenty--two thousand twenty-one, the two thousand twenty-one--two thousand twenty-two or the two thousand twenty-two--two thousand twenty-three school year and who has been appointed on tenure in a school district within the state, state school for the blind or deaf, the board of cooperative educational services where currently employed, or another board of cooperative educational services, and who was not dismissed from such district, board or state school for the blind or deaf as a result of charges brought pursuant to section three thousand twenty-a or section three thousand twenty-b of this article, such teacher shall be appointed for a probationary period of three years; provided that, in the case of a classroom teacher, such teacher demonstrates that he or she received an annual professional performance review rating pursuant to section three thousand twelve-c or section three thousand twelve-d of this article of either effective or highly effective in the two thousand seventeen--two thousand eighteen or two thousand eighteen--two thousand nineteen school year in such other school district, state school for the blind or deaf or board of cooperative educational services.~~] Services of a person so appointed to any such positions to which this paragraph applies may be discontinued at any time during the probationary period, upon the recommendation of the district superintendent, by a majority vote of the board of cooperative educational services.

2. (a) On or before the expiration of the probationary term of a person appointed for such term prior to July first, two thousand fifteen, the district superintendent of schools shall make a written report to the board of cooperative educational services recommending for appointment on tenure persons who have been found competent, efficient and satisfactory. 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 hearing, as provided by section three thousand twenty-a [~~or section three thousand twenty-b~~] of this article: (i) Insubordination, immoral character or

conduct unbecoming a teacher; (ii) Inefficiency, incompetency, or neglect of duty; (iii) Failure to maintain certification as required by this chapter and by the regulations of the commissioner. Each person who is not to be so recommended for appointment on tenure shall be so notified in writing by the district superintendent not later than sixty days immediately preceding the expiration of [~~his or her~~] **such person's** probationary period.

(b) On or before the expiration of the probationary term of a person appointed for such term on or after July first, two thousand fifteen, the district superintendent of schools shall make a written report to the board of cooperative educational services recommending for appointment on tenure 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 article, 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 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 article 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 in 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 nineteen--two thousand twenty, two thousand twenty--two thousand twenty-one or the two thousand twenty-one--two thousand twenty-two school 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 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-one--two thousand 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 hearing, as provided by section three thousand twenty-a [~~or section three thousand twenty-b~~] of this article: (i) Insubordination, immoral character or conduct unbecoming a teacher; (ii) Inefficiency, incompetency, or neglect of duty; (iii) Failure to maintain certification as required by this chapter and by the regulations of the commissioner. Each person who is not to be so recommended for appointment on tenure shall be so notified in writing by the district superintendent not later than sixty days immediately preceding the expiration of [~~his or her~~] **such person's** probationary period.

§ 9. Section 3020 of the education law, as amended by chapter 691 of the laws of 1994, subdivision 1 as amended by chapter 103 of the laws of 2010, subdivision 3 and paragraph a of subdivision 4 as amended by section 2 of subpart G of part EE of chapter 56 of the laws of 2015, and subdivision 4 as added by section 1 of part J of chapter 93 of the laws of 2002, is amended to read as follows:

§ 3020. Discipline of teachers. 1. No person enjoying the benefits of tenure shall be disciplined or removed during a term of employment except for just cause and in accordance with the procedures specified in section three thousand twenty-a of this article or in accordance with alternate disciplinary procedures contained in a collective bargaining

agreement covering [~~his or her~~] **such person's** terms and conditions of employment that was effective on or before September first, nineteen hundred ninety-four and has been unaltered by renegotiation, or in accordance with alternative disciplinary procedures contained in a collective bargaining agreement covering [~~his or her~~] **such person's** terms and conditions of employment that becomes effective on or after September first, nineteen hundred ninety-four; provided, however, that any such alternate disciplinary procedures contained in a collective bargaining agreement that becomes effective on or after September first, nineteen hundred ninety-four, must provide for the written election by the employee of either the procedures specified in such section three thousand twenty-a or the alternative disciplinary procedures contained in the collective bargaining agreement and must result in a disposition of the disciplinary charge within the amount of time allowed therefor under such section three thousand twenty-a[~~; and provided further that any alternate disciplinary procedures contained in a collective bargaining agreement that becomes effective on or after July first, two thousand ten shall provide for an expedited hearing process before a single hearing officer in accordance with subparagraph (i-a) of paragraph c of subdivision three of section three thousand twenty-a of this article in cases in which charges of incompetence are brought based solely upon an allegation of a pattern of ineffective teaching or performance as defined in section three thousand twelve-c of this article and shall provide that such a pattern of ineffective teaching or performance shall constitute very significant evidence of incompetence which may form the basis for just cause removal~~].

2. No person enjoying the benefits of tenure shall be suspended for a fixed time without pay or dismissed due to a violation of article thirteen-E of the public health law.

3. Notwithstanding any inconsistent provision of law, the procedures set forth in section three thousand twenty-a of this article and subdivision seven of section twenty-five hundred ninety-j of this chapter may be modified or replaced by agreements negotiated between the city school district of the city of New York and any employee organization representing employees or titles that are or were covered by any memorandum of agreement executed by such city school district and the council of supervisors and administrators of the city of New York on or after December first, nineteen hundred ninety-nine. Where such procedures are so modified or replaced: (i) compliance with such modification or replacement procedures shall satisfy any provision in this chapter that requires compliance with section three thousand twenty-a **of this article**, (ii) any employee against whom charges have been preferred prior to the effective date of such modification or replacement shall continue to be subject to the provisions of such section as in effect on the date such charges were preferred, (iii) the provisions of subdivisions one and two of this section shall not apply to agreements negotiated pursuant to this subdivision, and (iv) in accordance with paragraph (e) of subdivision one of section two hundred nine-a of the civil service law, such modification or replacement procedures contained in an agreement negotiated pursuant to this subdivision shall continue as terms of such agreement after its expiration until a new agreement is negotiated[~~; provided that any alternate disciplinary procedures contained in a collective bargaining agreement that becomes effective on or after July first, two thousand ten shall provide for an expedited hearing process before a single hearing officer in accordance with subparagraph (i-a) of paragraph c of subdivision three of section three~~

~~thousand twenty-a of this article in cases in which charges of incompetence are brought against a building principal based solely upon an allegation of a pattern of ineffective teaching or performance as defined in section three thousand twelve-c of this article and shall provide that such a pattern of ineffective teaching or performance shall constitute very significant evidence of incompetence which may form the basis for just cause removal of the building principal and provided further that any alternate disciplinary procedures contained in a collective bargaining agreement that becomes effective on or after July first, two thousand fifteen shall provide that all hearings pursuant to sections three thousand twenty-a or three thousand twenty-b of this article shall be conducted before a single hearing officer and that two consecutive ineffective ratings pursuant to annual professional performance reviews conducted in accordance with the provisions of section three thousand twelve-c or three thousand twelve-d of this article shall constitute prima facie evidence of incompetence that can only be overcome by clear and convincing evidence that the employee is not incompetent in light of all surrounding circumstances, and if not successfully overcome, the finding, absent extraordinary circumstances, shall be just cause for removal, and that three consecutive ineffective ratings pursuant to annual professional performance reviews conducted in accordance with the provisions of section three thousand twelve-c or three thousand twelve-d of this article shall constitute prima facie evidence of incompetence that can only be overcome by clear and convincing evidence that the calculation of one or more of the principal's underlying components on the annual professional performance reviews pursuant to section three thousand twelve-c or three thousand twelve-d of this article was fraudulent, and if not successfully overcome, the finding, absent extraordinary circumstances, shall be just cause for removal. For purposes of this subdivision, fraud shall include mistaken identity~~]. Notwithstanding any inconsistent provision of law, the commissioner shall review any appeals authorized by such modification or replacement procedures within fifteen days from receipt by such commissioner of the record of prior proceedings in the matter subject to appeal. Such review shall have preference over all other appeals or proceedings pending before such commissioner.

4. a. Notwithstanding any inconsistent provision of law, the procedures set forth in section three thousand twenty-a of this article and subdivision seven of section twenty-five hundred ninety-j of this chapter may be modified by agreements negotiated between the city school district of the city of New York and any employee organization representing employees or titles that are or were covered by any memorandum of agreement executed by such city school district and the united federation of teachers on or after June tenth, two thousand two. Where such procedures are so modified: (i) compliance with such modified procedures shall satisfy any provision of this chapter that requires compliance with section three thousand twenty-a of this article; (ii) any employee against whom charges have been preferred prior to the effective date of such modification shall continue to be subject to the provisions of such section as in effect on the date such charges were preferred; (iii) the provisions of subdivisions one and two of this section shall not apply to agreements negotiated pursuant to this subdivision, except that no person enjoying the benefits of tenure shall be disciplined or removed during a term of employment except for just cause; and (iv) in accordance with paragraph (e) of subdivision one of section two hundred nine-a of the civil service law, such modified procedures contained in an

agreement negotiated pursuant to this subdivision shall continue as terms of such agreement after its expiration until a new agreement is negotiated[~~; and provided further that any alternate disciplinary procedures contained in a collective bargaining agreement that becomes effective on or after July first, two thousand ten shall provide for an expedited hearing process before a single hearing officer in accordance with subparagraph (i-a) of paragraph c of subdivision three of section three thousand twenty-a of this article in cases in which charges of incompetence are brought based solely upon an allegation of a pattern of ineffective teaching or performance as defined in section three thousand twelve-c of this article and shall provide that such a pattern of ineffective teaching or performance shall constitute very significant evidence of incompetence which may form the basis for just cause removal, and provided further that any alternate disciplinary procedures contained in a collective bargaining agreement that becomes effective on or after July first, two thousand fifteen shall provide that all hearings pursuant to sections three thousand twenty-a or three thousand twenty-b of this article shall be conducted before a single hearing officer and that two consecutive ineffective ratings pursuant to annual professional performance reviews conducted in accordance with the provisions of section three thousand twelve-c or three thousand twelve-d of this article shall constitute prima facie evidence of incompetence that can only be overcome by clear and convincing evidence that the employee is not incompetent in light of all surrounding circumstances, and if not successfully overcome, the finding, absent extraordinary circumstances, shall be just cause for removal, and that three consecutive ineffective ratings pursuant to annual professional performance reviews conducted in accordance with the provisions of section three thousand twelve-c or three thousand twelve-d of this article shall constitute prima facie evidence of incompetence that can only be overcome by clear and convincing evidence that the calculation of one or more of the teacher's underlying components on the annual professional performance reviews pursuant to section three thousand twelve-c or three thousand twelve-d of this article was fraudulent, and if not successfully overcome, the finding, absent extraordinary circumstances, shall be just cause for removal. For purposes of this paragraph, fraud shall include mistaken identity~~].

b. Any modifications to the procedures set forth in section three thousand twenty-a of this article and subdivision seven of section twenty-five hundred ninety-j of this chapter shall not change the manner in which the fees and expenses of such proceedings pursuant to the aforesaid sections are paid.

§ 10. Section 3020-b of the education law is REPEALED.

§ 11. This act shall take effect immediately.