

STATE OF NEW YORK

3393

2023-2024 Regular Sessions

IN SENATE

January 31, 2023

Introduced by Sens. SKOUFIS, BAILEY, BRISPORT, BROUK, COONEY, HARKHAM, HINCHEY, KENNEDY, MANNION, MATTERA, MAY, RAMOS, RIVERA, RYAN -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to establishing school registration and support and assistance for designated schools; and to repeal certain sections of the education law relating thereto

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

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 Sections 211-a, 211-b, and 211-f of the education law are REPEALED and a new section 211-a is added to read as follows:

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

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

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

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

15 4. Identification of schools for intensive support and assistance. If
16 based on the annual determination, pursuant to subdivision two of this
17 section, a school is among those in the state as determined by the
18 commissioner that would most benefit from intensive support and assist-
19 ance, the commissioner may designate the school for intensive support
20 and assistance. Each school identified under this subdivision shall
21 develop an improvement plan to address the identified academic perform-
22 ance and other measures. Such plan shall be developed in consultation
23 with a community engagement team appointed in accordance with subdivi-
24 sion thirteen of this section, in such form and in accordance with such
25 format as may be prescribed by the commissioner, and approved by the
26 board of education or chancellor, in a school district in a city of one
27 million or more inhabitants, by such date as the commissioner may estab-
28 lish.

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

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

41 a. is determined by the commissioner to be farthest from state stand-
42 ards upon the school's initial identification for intensive support and
43 assistance.

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

46 7. Removal of schools from designation. The commissioner shall estab-
47 lish performance targets for schools identified as in need of additional
48 support and assistance pursuant to subdivision three of this section or
49 intensive support and assistance pursuant to subdivision four of this
50 section. Schools that achieve their performance targets shall be removed
51 from their designation.

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

1 (i) either:

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

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

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

17 (iii) demonstrated an ability to successfully work with at risk popu-
18 lations in closing achievement gaps; and

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

21 b. The educational support specialist shall be neither a current
22 employee of the school district nor be permitted to do other compensated
23 work for the school district without the approval of the commissioner.
24 The educational support specialist shall be appointed by and serve at
25 the pleasure of the commissioner. The commissioner shall establish the
26 rate of compensation for the educational support specialist to be paid
27 by the school district. Such compensation may not exceed the salary of
28 the school district's superintendent except in extraordinary circum-
29 stances which shall be outlined by the commissioner to the board of
30 education. The educational support specialist shall be entitled to
31 defense and indemnification by the school district to the same extent as
32 a school district employee. The contract between the educational
33 support specialist and the school district shall be subject to approval
34 by the commissioner.

35 (i) The educational support specialist shall:

36 (A) Support and assist the school in implementing an improvement plan
37 for such school working with the district administration and the commu-
38 nity engagement team.

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

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

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

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

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

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

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

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

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

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

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

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

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

3 12. Registration review team. Upon the placement of a school's regis-
4 tration under review pursuant to subdivision ten of this section, the
5 commissioner, after consultation with the school district, shall assign
6 a registration review team. The registration review team shall conduct
7 resource and program and planning audits and examine the quality of
8 curriculum, instructional plans, and teaching in the school, the learn-
9 ing opportunities and support services available to students, and the
10 organization and operations of the school. After such review the team
11 shall provide diagnostic recommendations for school improvement, which
12 may include administrative and operational improvements. The superinten-
13 dent shall consider the recommendation of the team for inclusion in the
14 school improvement plan. The superintendent shall provide annually a
15 report to the commissioner on the school's progress on the implementa-
16 tion of the improvement plan.

17 13. Community engagement team. Upon identification of a school for
18 additional support and assistance, intensive support and assistance or
19 designation of a school for registration review pursuant to subdivision
20 ten of this section, the district shall establish a community engagement
21 team, which shall include community stakeholders, including but not
22 limited to the school principal, parents and guardians, teachers and
23 other school staff and students. Membership of teachers and other
24 school staff on such team shall be based upon the recommendation of the
25 respective collective bargaining unit. Membership of such team may be
26 modified by the district at any time. Such team shall develop recommen-
27 dations for improvement of the school and shall solicit input through
28 public engagement. The community engagement team shall present its
29 recommendations periodically to the school leadership and, as applica-
30 ble, the educational support specialist.

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

37 15. Removal from registration review. Schools placed under registra-
38 tion review that make demonstrable improvement, as determined by the
39 commissioner, for two consecutive years, or that are removed from desig-
40 nation as intensive support and assistance schools, shall be removed
41 from registration review.

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

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

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

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

3 b. A school shall be removed from registration review status upon an
4 educational partnership organization, entering into a contract to oper-
5 ate the school pursuant to this subdivision but shall be designated as
6 an intensive support and assistance school and shall be given demonstra-
7 ble improvement targets.

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

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

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

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

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

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

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

54 3. The commissioner may appoint a distinguished educator to a school
55 district[+]

1 ~~a.~~] when such district or a school within such district has failed to
2 achieve adequate yearly progress for four or more years[~~+~~
3 ~~b. as a member of a joint school intervention team pursuant to para-~~
4 ~~graph b of subdivision two of section two hundred eleven-b of this~~
5 ~~part~~].

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