§ 2573. Appointment of assistant, district or other superintendents, teachers and other employees; their salaries, et cetera. 1. (a) 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 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 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 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, 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 of this chapter, the teacher shall be appointed for a probationary period of three years; 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 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 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.

(b) i. Administrators, directors, supervisors, principals and all other members of the supervising staff, except executive directors, associate, assistant, district and community superintendents and examiners, 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 or chancellor 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.

ii. Administrators, directors, supervisors, principals and all other members of the supervising staff, except executive directors, associate, assistant, district and community superintendents and examiners, 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 or chancellor of schools, for a probationary period of four years provided that such probationary period may be extended in accordance with paragraph (b) of subdivision five of this section; 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 chapter, 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.

2. The chancellor shall require, in anticipation of the reasonable needs of the school system, that interviews and performance tests be conducted for teaching service positions, pursuant to section two thousand five hundred sixty-nine of this article, so that qualifying eligible lists may be ready for promulgation as soon as vacancies come into existence. Where vacancies already exist, and cannot be filled because eligible lists have been exhausted, the chancellor shall require interviews and performance tests to be conducted forthwith and shall have lists available for promulgation within six months from the date of the administration of the test. Appropriate procedures for filling supervisory positions shall be established pursuant to regulations promulgated by the chancellor and qualifying eligible lists shall be promulgated and thereafter supplemented annually Supervisory positions shall be filled in accordance with regulations promulgated by the chancellor; supervisors who are properly assigned or appointed through such regulations shall be considered appointed in the license area of the supervisory position. Appointments shall be made from appropriate eligible lists in accordance with regulations of the chancellor to fill all existing vacancies not later than six months from the date of the existence of such vacancy, except that the board of education may defer such appointments until the opening of school following the expiration of such six month period.

3. Associate superintendents, examiners and all other employees authorized by section twenty-five hundred fifty-four of this article, except as otherwise provided in subdivision one of this section, shall be appointed by the board of education except that in the city school districts of the cities of Buffalo, Rochester, and Syracuse, the

associate, assistant and district superintendents and all other supervising staff who are excluded from the right to bargain collectively pursuant to article fourteen of the civil service law shall be appointed, within amounts budgeted therefor, by the superintendent of such city school district. In a city having a population of one million or more, such appointments shall be made on nomination of the superintendent of schools. Notwithstanding any other provision in this chapter to the contrary, whenever an associate superintendent of schools in the employ of the board of education in a city having a population of one million or more fails of reappointment, said person shall be immediately appointed an assistant superintendent of schools with permanent appointment as said term permanent appointment is defined in subdivisions four, five and six of this section. The salary of such assistant superintendent shall be less than the salary of an associate superintendent, but said differential in salary shall not exceed ten per centum of the annual salary of an associate superintendent of schools. When, however, an associate superintendent of schools who fails of reappointment has to his credit thirty or more years of city service including ten or more years of service as such associate superintendent of schools, he shall suffer no reduction of salary or of pension prospects while serving as such assistant superintendent of schools.

4. Clerks, draftsmen, inspectors, chemists, tabulating machine operators, secretaries, stenographers, copyists, statisticians, janitors, custodians, custodian-engineers, and all other administrative employees of a board of education, unless otherwise provided in this chapter, shall be appointed for a probationary period provided in the civil service law and regulations based thereon. The service of a person appointed to any of such positions may be discontinued by the board of education at any time during such probationary period. Such persons who have served the full probationary period shall hold their respective positions during good behavior and efficient and competent service, and shall not be removed except for cause after a hearing by the affirmative vote of a majority of the board.

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 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. Any person who has acquired tenure shall, upon such person's effective tenure date, hold their 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 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 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. Any person who has acquired tenure shall, upon such person's effective tenure date, hold their 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 of this chapter. Failure to maintain certification as required by this chapter and the regulations of the commissioner shall constitute cause for removal.

8. No charges under this section shall be brought more than three years after the occurrence of the alleged incompetency or misconduct except where the charge is of misconduct which resulted in conviction for a crime.

9. No principal, supervisor, director, or teacher shall be appointed to the teaching force of a city who does not possess qualifications required under this chapter and under the regulations prescribed by the commissioner of education for the persons employed in such positions in the schools of the cities of the state, but a board of education may prescribe additional or higher qualifications for the persons employed in any of such positions.

10. (a) In a city having a population of one million or more, recommendations for appointment to the teaching service shall be from the first three persons chosen by random selection from the qualifying eligible lists prepared by the chancellor. Competitive eligible lists in existence at the time of enactment of this subdivision shall not be merged and any such lists shall be exhausted or have expired before nominations are made from a qualifying list of a subsequent date promulgated hereunder. Qualifying eligible lists for supervisory positions shall be merged with any subsequently promulgated lists in the same license area so that there shall be one continuing non-expiring eligible list for each license area. No competitive eligible list shall remain in force for a longer period than four years, nor have a life of

less than three years. No competitive eligible list now in force shall terminate any sooner than four years from the date on which it was promulgated. The board of education, on the recommendation of the chancellor shall designate, subject to the other provisions of this chapter, the kind and grades of licenses which shall be required for service as principal, branch principal, director, supervisor or teacher of a special branch, head of department, assistant, school psychiatrist, school psychologist, school medical inspector, school social worker, school social caseworker, school secretary, industrial or trade helper in vocational schools, school librarian, laboratory assistant, or any other position of the teaching staff together with the academic and professional qualifications required for each kind or grade of license. No person required to have a license under the provisions of this chapter in order to be employed in a position who does not have such license shall have any claim for salary, except that a person who has been assigned to teach in a subject or field not specifically covered in his license but on the same rank or level of service shall be entitled to his salary.

(b) Qualifying eligible lists for teaching and supervisory positions shall consist of the names of all persons who have met the eligibility requirements for appointment as defined by the chancellor pursuant to sections two thousand five hundred ninety-j and two thousand five hundred sixty-nine of this chapter. Where the regulations of the commissioner do not identify a state certificate that corresponds to a license utilized by the city school district, the chancellor shall develop and administer an examination appropriate to the license, provided the development of such examination and the passing score are based upon appropriate validity studies conducted in accordance with professional standards of measurement. For teaching service positions, competitive eligible lists in existence on the effective date of this paragraph shall not be merged. Subsequently promulgated qualifying eligible lists in the same license area shall be merged so that there shall be one qualifying eligible list for each license area. No candidate shall remain on the qualifying eligible list longer than seven years from the date the candidate is placed on the qualifying eligible list. This paragraph does not affect the examinations for teaching or supervisory service positions announced by the board of examiners prior

to the effective date of this paragraph.

(i) Each year, the chancellor shall direct the division of personnel to select by random selection from among candidates who are available for assignment and who are on the qualifying eligible lists for teaching positions in existence on such date for each license area, a list of prospective appointees deemed to be sufficient to meet the needs of the school system for the next school year. The random selection to establish the initial list of prospective appointees shall be held prior to April first, nineteen hundred ninety-one. In any instance where the list of prospective appointees is insufficient for the twelve month period, the chancellor shall direct the division of personnel to select by random selection additional candidates who are available for assignment and who are on qualifying eligible lists in order to compile a supplementary list of prospective appointees.

(ii) Candidates selected by a random selection system and whose names appear on the list of prospective appointees for teaching positions shall be assigned to community districts and to divisions under the jurisdiction of the chancellor in the order in which their names were selected by such system provided that each appointment by the chancellor or community board as appropriate shall be made from among the first three persons so assigned.

(iii) Lists of prospective appointees for teaching positions shall not be merged and a list shall be exhausted or have expired before assignments are made from a list of prospective appointees selected by a random selection procedure of subsequent date. No candidate shall remain on the list of prospective appointees longer than seven years from the date that the candidate was placed on the qualifying eligible list.

10-a. In the city school district of the city of Buffalo, members of the teaching and supervising staff appointed on or after the effective date of this subdivision shall be required to hold a state teaching certificate, but shall not be required to hold a license issued by the Buffalo city school district. Persons appointed to the teaching and supervising staff prior to such effective date may continue to serve under a license issued by such city school district and the board of education shall be authorized to issue permanent licenses and permanent certificates of appointment after such effective date to such persons

who fulfill all announced requirements for the position that were imposed at the time of appointment. Nothing in this chapter shall affect the rights of persons serving pursuant to appropriate licenses issued prior to the effective date of this subdivision or require such persons to obtain certifications or licenses not previously required of them.

11. In a city have a population of one million or more, the board of education, subject to the approval of the commissioner of education, shall have power to authorize the superintendent of schools to assign any teacher employed to teach any subject or subjects other than any specific subject for which such teacher is licensed. No such assignment shall be made unless the superintendent of schools shall have certified that such teacher is competent to teach the assigned subject or subjects. The superintendent of schools with the approval of the board of education, shall have power to make rules and regulations in relation to ascertainment of competency of teachers to teach such assigned subject or subjects. The assignment of a teacher to teach any such assigned subject shall not operate to change the rank or level of such teacher from that which he or she occupied prior to such assignment.

12. The salaries of all members of the supervising and teaching force and of all employees and for all positions authorized under section twenty-five hundred four of this article shall continue to be not lower than such salaries were on June eighth, nineteen hundred seventeen. Rules and regulations shall be adopted governing excusing of absences and for the granting of leaves of absence either with or without pay.

13. Teachers appointed in the schools or classes maintained in the institutions controlled by the department of correction of the city of New York shall be appointed by the commissioner of correction of such city upon the nomination of the superintendent of schools of such city and shall be licensed by the board of examiners of the board of education of such city.

15. 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.

16. In the city school district of the city of New York, the board of education shall ascertain prior to August first, nineteen hundred sixty, and annually thereafter the number of appointments which will be required for the duration of not less than a term of the ensuing school year by reason of leaves of absence granted to members of the teaching staff serving on tenure. The board shall thereupon establish and make appointments to positions of replacement teachers in a number which, including any such teachers already serving as a result of earlier appointment, shall be at least equal, if possible, and, if not, as nearly as possible, to two-thirds of the minimum number of such teachers expected to be absent on leave at any one time. Such positions shall constitute a pool from which the board shall assign teachers to replace the teachers who are absent on leave. Appointments to such positions of replacement teachers shall be made from the appropriate eligible lists for the positions for which such replacement teachers will be required as determined by the board. Such positions of replacement teachers shall be in all respects permanent positions in the school system and persons duly appointed by the board to such positions shall be entitled to the rights of tenure and retirement accruing to persons serving in other permanent teaching positions, except that no replacement teacher shall be entitled to the special limitation of the probationary period to one year provided for certain teachers by subdivision one of this section. Upon acceptance of appointment as replacement teacher, the name of each such appointee shall be placed on a preferred eligible list as a candidate for appointment to any permanent teaching position for which he holds a valid license and such candidates shall be entitled to appointment from such preferred eligible list in order of their placement on such list. At any time when the total number of positions of replacement teacher in such pool exceeds the total number of teachers who will be absent on leave for the ensuing term of school, the board may abolish positions in such pool which are in excess of the number of teachers to be absent on leave as aforesaid, or may use replacement teachers in such pool instead of substitute teachers to replace teachers who are absent for shorter periods than one term. Whenever a particular

replacement teacher cannot be used to replace any teacher who is absent on leave for a full term, he may similarly be used to replace teachers who are absent for shorter periods. Nothing herein contained shall be construed as preventing the appointment of regular substitute teachers to replace teachers absent on leave when no persons holding positions created pursuant to this subdivision are available for such replacement.

17. In the city school district of the city of Buffalo, the board of education shall, within sixty days of the effective date of this subdivision and annually prior to August first of each year thereafter, ascertain the number of appointments which will be required for the duration of not less than a term of the ensuing school year by reason of leaves of absence granted to members of the teaching staff serving on tenure. The board shall thereupon establish and make appointments to positions of replacement teachers in a number which, including any such teachers already serving as a result of earlier appointment, shall be equal, if possible, or as nearly as possible, to two-thirds of the minimum number of such teachers expected to be absent on leave at any one time. Such positions shall constitute a pool from which the board shall assign teachers to replace the teachers who are absent on leave. Such positions of replacement teachers shall be in all respects permanent positions in the school system and persons duly appointed by the board to such positions shall be entitled to the rights of tenure and retirement accruing to persons serving in other permanent teaching positions, except that no replacement teacher shall be entitled to the special limitation of the probationary period to one year provided for certain teachers by subdivision one of this section. Upon acceptance of appointment as replacement teacher, the name of each such appointee shall be placed on a preferred eligible list as a candidate for appointment to any permanent teaching position for which he or she holds a valid license and such candidates shall be entitled to appointment from such preferred eligible list in order of their placement on such list. At any time when the total number of positions of replacement teacher in such pool exceeds the total number of teachers who will be absent on leave for the ensuing term of school, the board may abolish positions in such pool which are in excess of the number of teachers to be absent on leave as aforesaid, or may use replacement teachers in such

pool instead of substitute teachers to replace teachers who are absent for shorter periods than one term. Whenever a particular replacement teacher cannot be used to replace any teacher who is absent on leave for a full term, he or she may similarly be used to replace teachers who are absent for shorter periods. Nothing herein contained shall be construed as preventing the appointment of regular substitute teachers to replace teachers absent on leave when no persons holding positions created pursuant to this subdivision are available for such replacement.