§ 314. State plan for school district reorganization 1. The commissioner of education is hereby authorized to continue the investigations, study and review carried on by the joint legislative committee on the state education system in order to bring up to date the state plan for school district reorganization (legislative document number twenty-five of nineteen hundred forty-seven, formerly referred to as the Master Plan for School District Reorganization in New York State); to make such studies and surveys as are necessary to review periodically and maintain such plan currently; to hold hearings in relation to affected areas for the purpose of eliciting the expression of opinion, cooperation and assistance of the inhabitants of such areas; and to make recommendations for school district reorganization so as to assure the most efficient and economical provision of education facilities for such areas and in the best educational interests of the children in the area. Such recommendations shall be principally directed toward the reorganization of areas in and around the city school districts of cities having less than one hundred twenty-five thousand inhabitants, the reorganization of the remaining common and union free school districts not included in such urban and suburban areas and the reorganization of the smaller central school districts.

2. At any such time as the commissioner shall determine that an area or areas should be reorganized to assure and provide the best, most efficient and most economical educational facilities for such area or areas and that the best educational interests of the children in the area will be served by such reorganization, the commissioner shall formally announce or reaffirm such plan of reorganization stating his reason therefor by orders made by him and entered in his office. Such order shall identify the affected school districts and shall designate all school districts by name, number or such other description as the commissioner shall deem proper. The commissioner shall forward a copy of such order to the clerk or in the event there is no clerk, the trustee or trustees of such school district located in the affected area or areas.

3. (a) Any school district scheduled for reorganization, and not reorganized, desiring a change in the established plan of reorganization

as promulgated pursuant to subdivision two hereof, may petition to the commissioner for a formal public hearing stating the changes desired with the supporting papers, data and information. Such petition shall be filed with the commissioner by the board of education of a city school district or by the trustee or board of trustees or board of education in other types of school districts upon the motion of a majority of the voters of such school district, present and voting at an annual or special school district meeting or election adopting a resolution directing the school board or trustees to file such petition.

(b) The commissioner within thirty days after receipt of such a petition for a formal public hearing shall designate by written notice the place of such hearing and fix a date therefor not less than thirty nor more than sixty days from the date of such notice. Such notice shall include (1) the time and place of the formal public hearing, (2) set forth the petitioner's proposed change or changes, (3) the established plan of reorganization.

(c) Upon receipt of such notice of such hearing from the commissioner, the petitioning district shall publish a copy of such notice in one newspaper having a general circulation in such district, such publication to be at least twenty days before such hearing, but if there be no such newspaper, a copy of said notice shall be posted in at least twenty public places in said district twenty days before such hearing.

(d) Hearing. The formal public hearing shall be held at the time and place specified in such notice or amended or republished notice. Such hearing may be had before the commissioner or a person designated by him as a hearing officer. The commissioner or such person so designated shall hear the petitioning school district, the department and all districts and parties appearing, each of whom may present testimony under oath, supporting exhibits, departmental records and all data, maps, sketches and argument, concerning the petition. The petitioner shall have the burden of showing that the proposed change or changes to the existing state plan assures and provides equally efficient and economical educational facilities to such area or other areas affected and that the educational interests of the school children in the area will be at least equally served by such proposed change or changes, and that such change or changes will create school districts in the area or areas affected which by reason of actual or reasonably to be expected

growth, will be of adequate size, and financial resources to provide equally efficient and economical educational facilities to such area or areas to serve the educational interests of the children resident therein in all grades from kindergarten through the twelfth year.

(e) Within sixty days after such hearing is concluded and all papers in relation thereto are submitted, the commissioner shall render a preliminary finding recommending whether a change is warranted, setting forth his findings and conclusions which shall be based exclusively on the evidence presented at the hearing. The commissioner shall recommend the amendment or confirmation of the state plan in accordance with his preliminary finding by a report made by him and entered in his office. The commissioner shall serve a copy of such preliminary finding upon the clerk or in the event that there is no clerk, the trustee or trustees of the school districts located in the affected area or areas. In the event that such districts do not agree with such preliminary findings, the school districts affected by the terms of such preliminary finding may within thirty days apply to the chancellor of the board of regents for the appointment of a committee of the regents to review the proposed amendment or confirmation of the state plan. In the event that an application to the chancellor is not made within thirty days for the appointment of a committee of the regents, the preliminary finding shall become an order without further action of the commissioner.

(f) Upon receipt of such application, the chancellor shall appoint a committee of three members of the regents, one of whom shall be a regent whose judicial district includes all or part of the areas affected. The committee of regents shall review the proposed amendment or confirmation of the state plan. In the event the committee is unable to resolve the differences between the commissioner and such school districts, it shall within sixty days from the date of the appointment of such committee, make an order reversing, affirming, or modifying, wholly or in part, such preliminary finding of the commissioner and amending or confirming the state plan setting forth the committee's findings and conclusions which shall be based exclusively on the evidence presented at the commissioner's hearing and any additional evidence presented at the committee's review. The committee shall have the discretion to permit additional evidence to be presented by any party. The commissioner shall serve a copy of such order upon the clerk or in the event there is no

clerk, the trustee or trustees of the school districts located in the affected area or areas.

(g) Such order of the committee of the regents shall be binding and final and subject to review pursuant to article seventy-eight of the civil practice law and rules. The scope of review shall include the question whether the determination is on the entire record supported by substantial evidence.

(h) The commissioner shall establish and promulgate rules of practice and procedures in connection with such hearings, shall provide for the attendance of the hearing officer, regulate the course of the hearing, fix the time for filing of briefs and other documents, provide a hearing stenographer and for the making of a record as well as the making of a full transcript of all proceedings at the hearing and shall at the request of any party, school district or interested person have prepared and furnish a copy of the transcript or any part thereof upon payment of the costs therefor.

(i) School districts designated in the established plan by an order of the committee of the regents shall be made parties by the petitioning district. Districts which may be affected by the proposed change may join or be joined in such proceeding by the commissioner or any party.

4. Whenever a school district scheduled for reorganization fails to institute such proceeding hereunder within two years subsequent to the filing of an established plan of reorganization by the commissioner pursuant to paragraph two herein, the state plan of reorganization in existence at that time shall be final and binding upon all districts affected thereby. After such two year period, such district may petition the commissioner for a change in such final and binding plan upon an additional showing that material changes have occurred since such two year period. No proceeding shall again be brought until two years have elapsed since a final determination hereunder.

5. Nothing herein contained shall delay, or interfere with, the exercise of the powers of the commissioner of education vested in him by articles thirty-seven or forty or sections fifteen hundred twenty-four, fifteen hundred twenty-five or fifteen hundred twenty-six of the education law.

6. Whenever any school district scheduled for reorganization pursuant to the state plan of reorganization as herein established has not consolidated or reorganized in accordance therewith within two years after the entry of an order pursuant to subdivision two herein establishing such final plan of reorganization for the affected district or districts, or has failed within such time after receipt of such notice to institute a proceeding for a change in accordance with this section, or is unable to show that such district has adopted a resolution or resolutions in accordance with sections eighteen hundred one through eighteen hundred three, fifteen hundred ten through fifteen hundred thirteen, fifteen hundred twenty-two and fifteen hundred twenty-three, fifteen hundred twenty-four or fifteen hundred twenty-six of this chapter in favor of such reorganization or that in the case of an order of dissolution and annexation, such district has not asked for a referendum pursuant to subdivision two of section eighteen hundred two, and is being prevented from reorganizing by the action of another district which is part of the same plan of reorganization, commencing with the school year following the school year in which the two-year period expired, such school district shall not be eligible to receive any building aid exceeding the building aid which such district would be entitled to receive in accordance with the applicable provisions of the education law in existence on July first, nineteen hundred sixty-five until such reorganization shall take place, except for such additional amounts as may be computed as due on debt service already incurred; provided, however, that nothing contained in this subdivision shall prevent the apportionment of building aid for construction, reconstruction, alterations of or additions to school building facilities for the use of grades kindergarten through eight, provided the commissioner shall find that (1) existing facilities are obsolete or inadequate and (2) that the construction for which aid is sought would be capable of substantial educational use by the reorganized district in the event that the reorganization under the existing plan for reorganization is effected.