§ 3604. Conditions under which districts are entitled to apportionment. Apportionment of state funds shall be made subject to the following conditions:

4. The apportionments provided for in section thirty-six hundred two of this chapter are for the purpose of aiding school districts in paying the salaries of teachers and the cost of school maintenance, and the sums so apportioned to such school districts shall be applied for such purposes and such sums shall not in any case be placed in the city treasury of any city to the credit of the general fund of such city for the reduction of taxation therein, notwithstanding any provision to the contrary contained in the charter of such city or in any act relating to such city or in any general, special or local law.

5. a. State aid adjustments. All errors or omissions in the apportionment shall be corrected by the commissioner. Whenever a school district has been apportioned less money than that to which it is entitled, the commissioner may allot to such district the balance to which it is entitled. Whenever a school district has been apportioned more money than that to which it is entitled, the commissioner may, by an order, direct such moneys to be paid back to the state to be credited to the general fund local assistance account for state aid to the schools, or may deduct such amount from the next apportionment to be made to said district, provided, however, that, upon notification of excess payments of aid for which a recovery must be made by the state through deduction of future aid payments, a school district may request that such excess payments be recovered by deducting such excess payments from the payments due to such school district and payable in the month of June in (i) the school year in which such notification was received and (ii) the two succeeding school years, provided further that there shall be no interest penalty assessed against such district or collected by the state. Such request shall be made to the commissioner in such form as the commissioner shall prescribe, and shall be based on documentation that the total amount to be recovered is in excess of one percent of the district's total general fund expenditures for the preceding school year. The amount to be deducted in the first year shall be the greater of (i) the sum of the amount of such excess payments that

is recognized as a liability due to other governments by the district for the preceding school year and the positive remainder of the district's unreserved fund balance at the close of the preceding school year less the product of the district's total general fund expenditures for the preceding school year multiplied by five percent, or (ii) one-third of such excess payments. The amount to be recovered in the second year shall equal the lesser of the remaining amount of such excess payments to be recovered or one-third of such excess payments, and the remaining amount of such excess payments shall be recovered in the third year. Provided further that, notwithstanding any other provisions of this subdivision, any pending payment of moneys due to such district as a prior year adjustment payable pursuant to paragraph c of this subdivision for aid claims that had been previously paid as current year aid payments in excess of the amount to which the district is entitled and for which recovery of excess payments is to be made pursuant to this paragraph, shall be reduced at the time of actual payment by any remaining unrecovered balance of such excess payments, and the remaining scheduled deductions of such excess payments pursuant to this paragraph shall be reduced by the commissioner to reflect the amount so recovered. The commissioner shall certify no payment to a school district based on a claim submitted later than three years after the close of the school year in which such payment was first to be made. For claims for which payment is first to be made in the nineteen hundred ninety-six--ninety-seven school year, the commissioner shall certify no payment to a school district based on a claim submitted later than two years after the close of such school year. For claims for which payment is first to be made in the nineteen hundred ninety-seven--ninety-eight school year and thereafter, the commissioner shall certify no payment to a school district based on a claim submitted later than one year after the close of such school year. Provided, however, no payments shall be barred or reduced where such payment is required as a result of a final audit of the state. It is further provided that, until June thirtieth, nineteen hundred ninety-six, the commissioner may grant a waiver from the provisions of this section for any school district if it is in the best educational interests of the district pursuant to guidelines developed by the commissioner and approved by the director of the budget.

b. Claims resulting from court orders or judgments. Any payment which would be due as the result of a court order or judgment shall not be barred, provided that, commencing January first, nineteen hundred ninety-six, such court order or judgment and any other data required shall be filed with the comptroller within one year from the date of the court order or judgment, and provided further that the commissioner shall certify no payment to a school district for a specific school year that is based on a claim that results from a court order or judgement so filed with the comptroller unless the total value of such claim, as determined by the commissioner, is greater than one percent of the school district's total revenues from state sources as previously recorded in the general fund and reported to the comptroller in the annual financial report of the school district for such school year.

c. Payment of moneys due for prior years. State aid payments due for prior years in accordance with the provisions of this subdivision shall be paid within the limit of the appropriation designated therefor provided, however, that each eligible claim shall be payable in the order that it has been approved for payment by the commissioner, but in no case shall a single claim draw down more than forty percent of the appropriation so designated for a single year, and provided further that no claim shall be set aside for insufficiency of funds to make a complete payment, but shall be eligible for a partial payment in one year and shall retain its priority date status for appropriations designated for such purposes in future years.

6. The commissioner of education may also in his discretion excuse the default of a trustee or a board of education in employing a teacher not legally qualified, legalize the time so taught and authorize the payment of the salary of such teacher.

7. No district shall be entitled to any portion of such school moneys on such apportionment unless the report of the trustees or board of education for the preceding school year shall show that the public schools were actually in session in the district and taught by a qualified teacher or by successive qualified teachers or by qualified

teachers for not less than one hundred eighty days. The moneys payable to a school district pursuant to section thirty-six hundred nine-a of this part in the current year shall be reduced by one one-hundred eightieth of the district's total foundation aid for the base year for each day less than one hundred eighty days that the schools of the district were actually in session, except that the commissioner may disregard such reduction in the apportionment of public money: (i) for any day or days on which session had been previously scheduled but the superintendent was required to close the school or schools due to a properly executed declaration of a state or local state of emergency pursuant to article two-B of the executive law; or (ii) for up to five days if he or she finds that the schools of the district were not in session for one hundred eighty days because of extraordinarily adverse weather conditions, impairment of heating facilities, insufficiency of water supply, shortage of fuel, lack of electricity, natural gas leakage, unacceptable levels of chemical substances, a credible threat to student safety as reasonably determined by a lead school official or the destruction of a school building either in whole or in part, and if, further, the commissioner finds that such district cannot make up such days of instruction by using for the secondary grades all scheduled vacation days which occur prior to the first scheduled regents examination day in June, and for the elementary grades all scheduled vacation days which occur prior to the last scheduled regents examination day in June; or (iii) for any day or days in the two thousand nineteen -- two thousand twenty school year on which session had been previously scheduled but the chancellor of the city school district of the city of New York or the superintendent of a district closed the school or schools due to a determination by the chancellor or superintendent that it was in the best interest of public health or safety of the school district to close the school or schools in response to the novel coronavirus, COVID-19. For the purposes of this subdivision, "scheduled vacation days" shall mean days on which the schools of the district are not in session and for which no prohibition exists in subdivision eight of this section for them to be in session.

8. No school shall be in session on a Saturday, the first day of the second lunar month after the winter solstice in the preceding calendar

year known as Asian Lunar New Year, or a legal holiday, except general election day, Washington's birthday and Lincoln's birthday, and except that driver education classes may be conducted on a Saturday. A deficiency not exceeding four days during any school year caused by teachers' attendance upon conferences held by superintendents of schools of city school districts or other school districts employing superintendents of schools shall be excused by the commissioner, notwithstanding any provision of law, rule or regulation to the contrary, a school district may elect to schedule such conference days in the last two weeks of August, subject to collective bargaining requirements pursuant to article fourteen of the civil service law, and such days shall be counted towards the required one hundred eighty days of session, provided however, that such scheduling shall not alter the obligation of the school district to provide transportation to students in non-public elementary and secondary schools or charter schools. At least two such conference days during such school year shall be dedicated to staff attendance upon conferences providing staff development relating to implementation of the new high learning standards and assessments, as adopted by the board of regents. Notwithstanding any other provision of law, rule or regulation to the contrary, school districts may elect to use one or more of such allowable conference days in units of not less than one hour each to provide staff development activities relating to implementation of the new high learning standards and assessments. A district making such election may provide such staff development on any day during which sessions are allowed and apply such units to satisfy a deficiency in the length of one or more daily sessions of instruction for pupils as specified in regulations of the commissioner. The commissioner shall assure that such conference days include appropriate school violence prevention and intervention training, and may require that up to one such conference day be dedicated for such purpose.

8-b. Notwithstanding the provisions of subdivision eight of this section, a trustee or board of trustees or a board of education of a school district having fewer than six hundred pupils in grades kindergarten through twelve may provide for classes to be held on any day of the week in connection with educational programs for the

disadvantaged operated under the elementary and secondary education act; provided, however, no pupils or teachers shall be required to attend such classes if they observe any such day as a Sabbath or a holy day in accordance with the requirements of their religion.

9. Whenever it shall appear that any school district has had an average daily attendance of five or less during the three years immediately preceding the first of July, if such district continues to maintain a school the succeeding year, it shall be entitled to receive for such year an amount equivalent to the average daily attendance of pupils in such district divided by fifteen and multiplied by the amount it would be entitled to receive under the provisions of this chapter. Provided, however, whenever the commissioner of education is satisfied that the closing of the school in any district is impracticable or that the cost to such district of contracting for the education of its pupils would exceed the cost involved in maintaining a school in the district and such district maintains a school, he may apportion to such district the total amount of state aid to which it is entitled.

10. No school district shall be eligible to receive the full apportionment of state aid to which it is entitled under other provisions of this chapter unless the trustees or board of education comply with the requirements of article eighty-nine of this chapter. If the trustees or board of education of a school district fail to comply with such requirements or reduce the programs provided thereunder below the corresponding programs provided during the school year commencing July first, nineteen hundred sixty-one, except as a result of a reduction in the number of pupils affected, the commissioner of education shall withhold from the full apportionment of such state aid an amount equal to the difference between (i) the expenditures which he estimates the district would have had to make or incur during the school year upon which such apportionments are based if the district had fully complied with such requirements or if the district had maintained such programs, and (ii) the expenditures actually made or incurred by the district for such programs during the same school year.

11. Notwithstanding any other provision of law, the commissioner shall

withhold the general fund apportionment due to any school district when such school district fails to submit by the date specified in section thirty-six hundred one of this part the reports required by the commissioner to calculate such apportionments, until the time such reports have been submitted in proper fashion.

12. All the acts done and proceedings heretofore had and taken or caused to be had and taken by the Center Moriches Union Free School district and by all its officers or agents relating to or in connection with certain transportation contractual obligations for regular student transportation of the nineteen hundred ninety-nine--two thousand school year, which was part of the two thousand--two thousand one state aid claim submitted to the department by such school district, are hereby legalized, validated, ratified and confirmed, notwithstanding any failure to comply with the approval and filing provisions of this chapter or any other law or any other statutory authority, rule or regulation, other than those filing provisions defined in paragraph a of subdivision five of this section, in relation to any omission, error, defect, irregularity or illegality in such proceeding had and taken. For the purpose of those filing provisions defined in such paragraph a of subdivision five of this section, the district shall be deemed to have filed such contract within one year after the close of the two thousand--two thousand one school year, and aid due and payable for such filing shall be deemed to be state aid payments due for prior years and shall be paid pursuant to paragraph c of subdivision five of this section.

13. For purposes of this chapter, "limited English proficient" and "limited English proficiency" shall mean "English language learner".